

May 9, 2002

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REVISED REPORT AND RECOMMENDATION AND SHORELINE DECISION

SUBJECT: Department of Development and Environmental Services
Preliminary Plat Application File No. **S128903** (Proposed Ordinance No. **1999-0574**);
Shoreline Substantial Development Permit Application File No. **L98SH006**

TREEMONT

Preliminary Plat and
Shoreline Substantial Development Permit Applications

Location: Lying approximately 5 miles southwest of Carnation, 2.5 miles northwest of Fall City
and generally on the northerly side of SR 202 and generally bounded by SE 16th Street on
the north, SE 24th Street on the south, 292nd Avenue SE on the west and 304th Avenue SE
on the east, if all roads were extended

Owner

Developer:	Bob Johns, Esq.	<i>representing</i> Port Blakely Communities
	Johns, Monroe, Mitsunaga	1775 – 12 th Ave NW, Ste 101
	1500 – 114 th Ave. SE, #102	Issaquah, WA 98027
	Bellevue, WA 98004	
	Telephone: (425) 451-2812	

King

County:	Rich Hudson	Mark Mitchell
	DDES/LUSD	DDES/LUSD
	900 Oakesdale Avenue SW	900 Oakesdale Avenue SW
	Renton, WA 98055	Renton, WA 98055
	(206) 296-7157	(206) 296-7119

Appellants
before the
Council:

Robert Seana, representing
Neighbors Against Flooding, et al
623 W. Snoqualmie River Road Southeast
Carnation, WA 98014
(425) 828-6180

SUMMARY OF DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve at 47 lots, subject to conditions (modified)
Examiner's Recommendation:	Approve at 83 lots, subject to conditions (modified)

PRELIMINARY MATTERS:

Applications submitted:	
Subdivision	December 30, 1988
Shoreline	August 17, 1998
Complete subdivision application:	December 30, 1988

EXAMINER PROCEEDINGS:

Hearing Opened:	November 2, 1999, at 9:30 AM
Hearing Closed:	December 3, 1999, at 4:40 PM
Hearing Reopened on Remand:	March 7, 2002
Hearing Closed on Remand:	March 25, 2002

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Application completeness
- Drainage
 - diversion variance
 - flooding
- Geotechnical
 - erosion and landslide hazards
 - stream sedimentation
 - temporary erosion control
- Land use
 - rural character
- SEPA substantive authority
- Roads and traffic
 - construction traffic
 - levels of service
 - mitigation funding
 - offsite shoulder improvements
 - plat access
 - regional facilities
 - trip distribution

Shoreline permits
Vesting

SUMMARY:

Approval of the preliminary plat application is recommended for 83 lots. Approval of the shoreline permit required by the project is also granted.

FINDINGS AND CONCLUSIONS: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Port Blakely Communities
1775 - 12th Avenue NW, Suite 101
Issaquah, WA 98027

Engineer: Hugh G. Goldsmith & Associates, Inc.
1215 - 114th Avenue SE
Bellevue, WA 98009
Phone: (425) 462-1080

STR: Portions of Sections 5 & 6, Range 24N, Township 7E

Location: The proposal is located in the Snoqualmie Valley area of unincorporated King County, approximately 5 miles southwest of Carnation, 2.5 miles northwest of Fall City and 8 miles northeast of Issaquah. The 239-acre site lies generally on the northerly side of State Route 202 and generally bounded by SE 16th Street on the north, SE 24th Street on the south, 292nd Avenue SE on the west, and 304th Avenue SE on the east, if all roads were extended. The north boundary is adjacent to the approved Treemont North residential development, and the eastern boundary is adjacent to the Tall Chief Golf Course.

Zoning: General (G zoning – one-acre density at plat submittal/1988)
Rural Area (AR-5 – current zoning, 5-acre lot density)

Acreage: 239 Acres (plat only)

Number of Lots

Requested: 194

Density: 0.81 units/acre

Lot Size: Average lot size approximately 37,000

Proposed Use: Single-Family Residential

Sewage Disposal: Individual Septic Tank

Water Supply: Sammamish Plateau Water & Sewer District

Fire District: #27
 School District: Snoqualmie Valley - District #410
 Complete
 Application Date: December 30, 1988
 Subdivision
 Application Date: December 30, 1988
 Shoreline
 Application Date: August 17, 1998
 Shoreline
 Designation: Shoreline of Statewide Significance - Conservancy
 Shoreline
 Waterbody: L98SH006/Snoqualmie River

PROCEDURAL BACKGROUND TO FEBRUARY 2, 2000 DECISION

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary reports to the King County Hearing Examiner for the November 2, 1999, public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD reports will be attached hereto for submittal to the Metropolitan King County Council. Required corrections to the LUSD plat report include notations that the proposed density of the subdivision is 0.81 dwelling units per acre, that the shoreline applications were filed on April 17, 1998, and that the school impact fees applicable to the project are \$3,490 per lot.
3. On December 30, 1988, a preliminary plat application was submitted by Port Blakely Tree Farms to subdivide 239 acres located east of SR 202 into 236 lots for single family development. At the time of filing the property was zoned G (General) under Title 21 of the Zoning Code and was submitted under the name Blakely Ridge South. On April 11, 1989, a determination of significance under SEPA was issued for the plat application and a notice of scoping issued. In September, 1989 a rural five acre designation was applied to the property pursuant to the adoption of the Snoqualmie Valley Community Plan and its supporting zoning. This five-acre designation was continued in place after adoption of the 1994 Comprehensive Plan and its implementing regulations. The property was designated Rural under both the 1985 and 1994 Comprehensive Plans.
4. Over the course of 11 years the preliminary plat proposal has been substantially reconfigured. The proposed plat of Treemont now seeks approval for 194 lots rather than 236. Treemont now proposes to construct a new access road from the plat to SR 202 through the 15-acre Schroeder parcel, which was purchased by Port Blakely pursuant to a real estate contract dated January 31, 1992. Primary access had previously been proposed to the north, outletting via the existing right of way for Southeast 8th Street, with an alternative access to the south conceptually described through an adjacent Aldarra Farms parcel. A second major change the plat proposal has undergone since its original submission is to divert a substantial portion of site drainage from the property's western basin discharging to Patterson Creek and to reroute such flows east to the Snoqualmie River via a tightline.

5. The process of SEPA review for the Treemont project has involved the issuance of a draft environmental impact statement in August, 1994, followed by a major addendum in March, 1999, and a Final EIS in September, 1999. In his written final argument a neighborhood opponent, Robert Seana, has challenged whether the publication of an addendum EIS for the project was appropriate in view of the substantial revisions made to the project and their attendant impacts. According to WAC 197-11-600(4)(c), the use of an addendum EIS is appropriate if it only “adds analyses or information about a proposal that does not substantially change the analysis of significant impacts and alternatives in existing environmental documents.” If the revised proposal creates substantial changes likely to result in significant adverse environmental impacts, the use of a supplemental EIS is mandated.
6. Without commenting on the merits of Mr. Seana’s position, we are required to find that the issue of EIS adequacy was not raised in a timely manner. While KCC 20.44.120.A (5) acknowledges that “administrative appeals of the adequacy of a final EIS are permitted for actions classified as Type 2, 3, or 4 land use permit decisions in KCC 20.20.020....”, there are no Code provisions that identify an event triggering a filing period for an EIS adequacy appeal. Since the issuance of a final EIS is not a land use decision within the meaning of KCC Chapter 20.20, such issuance is not an event authorized by Code for the filing of an EIS adequacy appeal. As a practical matter then, EIS adequacy appeals usually arise as part of the hearing process for the underlying permit, and the examiner process generally relies on due process considerations for identifying procedural requirements applicable to EIS adequacy appeals. This means that the EIS adequacy issue needs to be raised either at a prehearing conference or near the opening of a permit hearing so that all parties may have an opportunity to respond to the issues. Raising an EIS adequacy issue at the end of the hearing after the close of testimony within a legal brief does not satisfy due process notice requirements and must be deemed untimely.
7. The Final EIS for the Treemont project analyzed the 194-lot plat application as the proposed action and in addition reviewed a 47 residential lot alternative (as allowed under the current five-acre zoning), a no action alternative, and a lower density option of 100 lots. KCC Chapter 21.24 sets out the standards for the G zone, which was envisioned as a transitional regulatory mechanism applicable to rural lands expected eventually to be subject to urban development. The zone establishes a minimum residential lot area of 35,000 square feet, but permits lot averaging to achieve the minimum requirement. According to data submitted by the Applicant’s engineer, the average lot size for the Treemont plat will be 36,411 square feet, with more than 80% of the lots projected to exceed the 35,000 square foot minimum.
8. The Applicant expects to develop the site in phases, with some of the Patterson Creek sub-basin lots to be developed prior to the construction of the Snoqualmie River diversion. Based on the maximum development that will be permitted by WSDOT to use Southeast 8th Street for primary access without construction of the new Southeast 19th Street access road, the number of Phase I lots will not exceed 20. Mitigation of construction impacts to Patterson Creek from the new access road will also require Patterson sub-basin drainage facilities to be built before the new road so that construction runoff can be pumped up to the R/D facilities and treated prior to release to Patterson Creek.

9. Three separate shoreline substantial development permit applications were filed on April 17, 1998. Two of them sought to authorize construction near Patterson Creek, one application being for the boring of a waterline under the creek and the second for road improvements to widen SR 202 adjacent to the creek buffer. These two shoreline applications have been withdrawn subsequent to a determination that Patterson Creek at this location has not been formally designated by the state as a shoreline within shoreline management jurisdiction. Thus, the only remaining active shoreline application is the third shoreline permit that is required for the lowest sections of pipeline and the outfall for the stormwater diversion to the Snoqualmie River.
10. Some controversy has arisen regarding the water service and septic disposal provisions proposed for Treemont, focused primarily on the fact that certain required system approvals will not be obtained until after preliminary plat review. Water service to the plat was initially expected to be obtained from the Ames Lake Water District, but by the time of preliminary plat application the Sammamish Plateau District had been identified as the service purveyor. It was then estimated that Treemont would be required to construct approximately two miles of water main along the Duthie Hill Road right of way to serve the plat. At this point that figure has been reduced to approximately 6,000 feet measured from the southeast corner of the Trossachs development, where the water line currently terminates.
11. A certificate of water availability was initially issued for the plat proposal on October 6, 1988. It noted the water main construction requirement, plus the need for a water comprehensive plan amendment, developer extension agreement and either Boundary Review Board approval or district service area annexation proceedings. Even though provision of water service from the Sammamish Plateau District will effect an importation of water from one watershed to another, such transfer has been found to be in compliance with the East King County Critical Water Supply Boundary Agreement, and the District's new Water Comprehensive Plan draft contemplates service to Treemont. While Boundary Review Board approval of the annexation eventually will be required, the fact that the proposed service area does not include any properties outside the plat renders such approval a formality.
12. Each of the 194 proposed Treemont lots is slated to be served by an individual septic system. The County Health Department granted preliminary conceptual approval for the proposed septic service for Treemont on November 28, 1988. Since that time more detailed review has indicated that at least 60 of the proposed lots may lack the minimum soil depths required for septic approval. If such lots cannot be approved by the Health Department before the final plat is recorded, they may need to be consolidated or eliminated. The site is underlain at relatively shallow depths with an impermeable till layer, which accounts both for the thinness of the top soil and the high winter water table.
13. While the elimination of lots from Treemont based on failure to meet Health Department septic requirements remains a distinct possibility, it does not provide a basis for denying preliminary plat approval for lots identified as marginal for septic service. First, such a decision within the instant proceeding would constitute an unwarranted usurpation of Health Department authority by the Hearing Examiner. Second, and more critically, it is simply not possible to determine septic feasibility until plat road cuts have been made and major site grading has occurred. Final septic approval takes place within the context of the ultimate configuration of the site, and such

final decisions must necessarily be deferred well past the point at which preliminary plat approval is conferred.

14. Due to the long and convoluted history of the Treemont proposal, myriad issues have been presented regarding the vesting requirements for this plat. The basic standard applicable to subdivision vesting is stated at RCW 58.17.033, which requires a proposed division of land to be considered under the subdivision ordinance “and zoning or other land use control ordinances, in effect on the land at the time of fully completed application for preliminary plat approval...has been submitted....” Pursuant to this provision, the 239 acres within the Treemont plat boundary established on December 30, 1988, is deemed vested under the platting and zoning rules in effect at that time.
15. When a determination of significance has been issued and an EIS required, a second vesting date is created with respect to those plans, rules or regulations designated by the local legislative body as a basis for the exercise of substantive SEPA authority for the mitigation of adverse environmental impacts. For such mitigation measures (or for a denial under SEPA authority), the effective vesting time is the date upon which the draft environmental impact statement is issued (WAC 197-11-660(1)(a)).
16. The Draft EIS for Treemont was issued on August 9, 1994. This was just prior to the adoption of the 1994 Comprehensive Plan and Title 21A zoning ordinance, but after the enactment of the 1990 Sensitive Areas Ordinance and Surface Water Management Manual, as well as being subsequent to the adoption of the 1993 Road Standards.

The Applicant’s attorney has argued that, notwithstanding these earlier adoption dates, many of the plans and ordinances enacted by King County since December, 1988, are unavailable to the County to impose via the SEPA mitigation process due to defects in the County’s SEPA substantive authority ordinance provisions. As noted by Mr. Johns, the policies, plans, and regulations employed by the County as a basis for the exercise of SEPA substantive authority must be “formally designated” as such in order to be available as a basis for mitigation measures.

17. First, we take no issue with Mr. Johns’ basic point, which is that the section of County Code designating SEPA substantive authority has not been kept up to date. The Applicant’s argument is that the County’s SEPA substantive authority ordinance in effect on August, 1994, was Ordinance 9142, adopted September 29, 1989, and only it can be relied upon by the County to define its substantive authority. Specifically, Mr. Johns contends that any later amendments which were adopted between 1989 and 1994 are excluded from consideration because Ordinance 9142 does not by its terms include later amendments. The authority cited for this proposition is the case of Republic v. Brown, 97 Wn 2d 915 (1982), which holds that a local ordinance that incorporates by reference a state statute only refers to the statute as it existed at the date of the local ordinance adoption, unless the words “and any amendments thereto” or language to similar effect has been included in the ordinance. According to Mr. Johns’ argument, generic references within Ordinance 9142 to the Title 21 King County Zoning Code, the Shoreline Management Master Program, and the Surface Water Runoff Policy would not be effective to include any amendments adopted after 1989.

18. We are not persuaded that Republic v. Brown is controlling in this instance. There is an important difference between a local ordinance that incorporates a state statute and a local ordinance that merely references companion local regulations. In the former instance, there can be no logical inference that later changes to an incorporated state statute were contemplated and approved by the local legislative body. Such limitation, however, does not apply to a local legislative body referring to its own other enactments. Because the source of both the adopting and the adopted ordinance is the same legislative authority, it is reasonable to assume that a general adoptive reference also includes later amendments. This view is consistent with rules on legal interpretation that hold that local ordinances should be construed to make them effective in light of their legislative purposes and in such a manner as to avoid strained, unreasonable or illogical results. See, e.g. Stegritty v. King County Board of Appeals, 39 Wn App 346 at 353 (1989) and cases cited therein.
19. Since the Schroeder parcel has never been included within the boundaries of the Treemont preliminary plat application and was not purchased by the Applicant until 1992, there is obviously a strong argument against treating it as vested to development standards in effect in 1988 when the plat application was filed. Nonetheless, DDES staff has testified as to an established department policy to extend vesting coverage offsite where staff review has identified the need for additional plat facilities and made their provision a requirement of plat approval. It was the staff's original position that the new access road should be required as a condition of plat approval, and on that basis the Schroeder parcel should be regarded as vested to 1988 policies and regulations.
20. We are prepared to accept the staff's position on vesting for the Schroeder parcel within the scope of its logic. Certainly, the essential rationale for dating back facilities identified by staff review is compelling, but it needs to be appropriately limited. For example, while the staff has supported the construction of a new access road, the Applicant's decision to also site R/D facilities within the Schroeder parcel was its own decision unrelated to staff review, and such facilities should not be viewed as vested under 1988 provisions. Finally, while the Schroeder parcel may reasonably be viewed as vested to 1988 standards for road development purposes, identification of adverse environmental impacts attendant to such development may warrant imposition of more stringent 1994 standards under SEPA authority to mitigate or avoid impacts.
21. We further find no compelling basis for regarding the shoreline permit applied for in 1998 as vested to 1988 standards. Notwithstanding informal DDES policy, such a permit is governed by the provisions of KCC 20.20.070, which requires its consideration under those zoning and land use control ordinances in effect on the date a complete application was filed. KCC 20.20.070(C) specifically provides that "vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals." The locations for the drainage tightline and its outfall were not imposed upon the applicant by DDES staff review, and therefore no basis exists, informal or otherwise, for regarding the offsite elements of these facilities within shoreline jurisdiction as vested to regulations prior to their 1998 application date.
22. Fortunately, much of this vesting discussion has been rendered academic by the willingness of the Applicant to adhere voluntarily to more recent regulatory standards in an effort to adequately

mitigate the adverse impacts of the proposal. Exhibit 58 contains the Applicant's list of more recent regulatory standards to which it has agreed to be bound. Accordingly, the Applicant has stipulated to development pursuant to the 1993 Road Standards, the current Sensitive Areas Ordinance (KCC 21A.24) within the plat boundaries, the 1998 Surface Water Manual, and the KCC Title 21A.43 School Mitigation Ordinance.

23. While this piecemeal pattern of voluntary compliance with some current regulations but not others presents a confusing approach, there appear to be no applicable regulations nor case law prohibiting such a selective vesting strategy. If one assumes that current regulations are usually going to be more strict than their predecessors, then voluntary compliance with current regulations confers a public benefit.

REMAND PROCEEDING

24. Neighbors Against Flooding and other local groups in the Snoqualmie Valley represented by Robert Seana appealed the hearing examiner's February 2, 2000 report and recommendation for the Treemont plat application. At its land use appeal hearing held June 5, 2000 the Metropolitan King County Council voted to reverse certain elements of the examiner's decision and remand the plat application to the hearing examiner for further proceedings on certain specified issues. A status conference on the remand was held on July 13, 2000, and on July 24, 2000 the examiner issued an order outlining the procedures to be followed in implementing the Council's remand directive.
25. The remand status conference order identified four areas in which new studies would be required. These included an additional traffic study incorporating the thresholds and analysis required by KCC Chapter 21.49, the Road Adequacy Standards; a revised drainage study to consider the various options for, and environmental consequences of, allocating runoff flows between Patterson Creek and the Snoqualmie River; a level 3 downstream analysis; and a study comparing the Southeast 19th and Southeast 8th Street site access options with respect to geotechnical impacts, impacts to Patterson Creek and its fisheries resources, drainage treatment feasibility, construction traffic management impacts, impacts to the Schroeder parcel, WSDOT requirements and right-of-way availability. In addition, the Applicant was granted leave to augment the record as to the function of an "early start" clearing and grading permit, so that it might have a factual basis for requesting reconsideration of the Council's decision to delete original condition 7 a. from the approval. Finally, the parties were offered the opportunity to provide further testimony on the plat's impacts to rural character in the context of the changes to the development attributable to the implementation of the remand motion.
26. The remand status conference order also addressed the relationship of the new studies and additional proceedings to the County's SEPA review process. The Applicant sought to avoid undue delay and the repetition of work previously accomplished, while the examiner was concerned that the County's substantive authority under SEPA be adequately preserved if the new studies resulted in significant new information. After some discussion a compromise was reached whereby the Applicant stipulated that the remand studies were to be deemed a supplemental EIS for purposes of determining SEPA substantive authority, provided that the

SEPA review for such studies employed the remand hearing process for its implementation. This results in some overlapping functions: public testimony at the remand hearing also served as comment on the adequacy under SEPA of the remand studies, and the examiner's report to the Council on remand will serve as a supplemental EIS, if such is required.

27. The Applicant's remand studies were completed and became available for circulation and review in mid-November, 2001, and a pre-hearing conference was scheduled for December 3, 2001 to establish procedural deadlines and set hearing dates. Pursuant to the pre-hearing order issued on December 10, 2001, the remand hearing for Treemont opened on March 7, 2002 and the hearing record closed on March 25, 2002.

GEOTECHNICAL/SITE ACCESS

28. The 253-acre Treemont site consisting of the preliminary plat parcel and its adjacent access tract are located at the southern end of a glacial drift upland that resembles the state of Florida in shape. To the site's southwest lies the Patterson Creek Valley with its rather narrow floodplain, beyond which rises the Sammamish Plateau. To the east the site steeply drops down into the Snoqualmie River Valley. While the crown of this upland feature is relatively flat, it is characterized by steep slopes along its base. A number of serious site development issues are associated with the slopes on the southwestern portion of the site where a new access road is proposed and utility crossings will need to occur.
29. Arterial access to this area is provided by SR 202, which threads its way along the southwestern edge of the glacial drift upland within a narrow corridor bounded on the western side by Patterson creek and its floodplain. Historically, the construction of SR 202 entailed both filling within the creek floodplain and cuts into the steep slopes to the east.
30. The Treemont site does not have a usable direct access to SR 202. Access to the plat property is currently obtained from the north via a road recently constructed within the plat of Treemont North, which outlets to the west to SR 202 via Southeast 8th Street. Because Southeast 8th Street has been cut into the western slopes of the glacial drift upland, it contains portions that traverse a 15% grade, with almost no flat landing at the bottom of the slope. In addition, sight distance at its intersection with SR 202 is constrained by the existence of uncut slope walls lying both to the north and to the south. The usefulness of Southeast 8th Street as a primary access to the Treemont site is further restricted by the County's "100 lot rule", now codified at KCRS 2.20, which requires that no residential street shall serve more than 100 lots or dwelling units unless connected in at least two locations with another functionally adequate roadway. After development of Treemont North, the access roadway designated Treemont Way Southeast would be required to serve more than 100 lots at the point at which the instant proposal exceeded 83 lots. Accordingly, since 1992 the Treemont application has been predicated on the construction of a new principal access road directly west to SR 202 in order to provide the second access necessary to avoid the safety and convenience limitations underlying the 100-lot rule.
31. While the upland portions of the Treemont site are underlain by a thick layer of Vashon till, the lower slopes adjacent to SR 202 are lacustrine silts and clays. These Kitsap series soils pose

serious construction hazards resulting from rapid runoff, severe sheet erosion and low shear strength. In addition, the soil particles are very fine, thus reducing the efficiency of sedimentation control measures. Moreover, this lacustrine layer results in a high landslide hazard risk on the steep slopes overlooking Patterson Creek, which slopes are in the 40-60% range.

32. Construction of an access road that directly serves the Treemont plat from SR 202 (tentatively identified as Southeast 19th Street) will require the excavation and removal of a major quantity of soil. First, to achieve a road grade not to exceed 15% through the steep slope area, a major slope cut will be required, with side slopes tapered at a 4:1 angle to insure stability. In addition, creation of a new access road at this location will necessitate the construction of new turn lanes on SR 202. Because Patterson Creek is adjacent to SR 202 immediately to its west, any widening of SR 202 necessarily requires further cuts into the steep slopes to its east. Finally, due to SR 202's curvature, additional excavation into the steep slopes both north and south of the access intersection will be required to provide adequate entering sight distance.
33. Estimates for the construction of the new access road and widening of SR 202 at the Southeast 19th Street location projected a total excavation of 135,000 cubic yards. The approved road variance retains a 15% road grade for approximately 300 feet, flanked on either side by stretches of 11% grades. The design projects a road cut within erosive lacustrine soils over a 600-linear foot length at a maximum cut depth of 47 feet. In addition, the existing slope along SR 202 will need to be cut back a further maximum amount of 40 feet, and one of the seasonal streams flowing from the property toward Patterson Creek will require an additional 75 feet of culverting. Finally, proposed road construction work will entail the filling of a farm pond on the access tract plus some wetlands at the base of the slope within the SR 202 right of way.
34. Employing retaining walls along SR 202 and dewatering trenches within the cut slopes, the road improvement proposed by the Applicant can be engineered to provide a stable facility. The major sensitive areas issues to be resolved relate to potential erosion and sedimentation during the construction period. Even though road construction runoff is proposed to be routed through the plat's R/D pond and filter system, most major excavation will occur at an elevation lower than the stormwater tract, resulting in a need to collect construction phase stormwater at the SR 202 right of way and pump it uphill to the R/D facilities. In response to this challenge, the Applicant's engineer has proposed a conceptual design for a temporary erosion and sediment control system involving prior construction of R/D facilities, seasonal constraints on road construction, sealing off the construction area with fabric along the SR 202 right of way, and pumping construction runoff up to the R/D system for treatment prior to release to Patterson Creek. In addition, the Applicant has proposed that implementation of the temporary erosion and sedimentation control plan be overseen during the road construction phase by a fulltime TESC supervisor.
35. While the Applicant's TESC conceptual design cannot be faulted, such systems often do not work as well in the field as they do on paper. Due to the fine-grained, highly erodable lacustrine soils, the sediment loading from this site will be high. Under the best of circumstances, two-thirds removal of the sediment load from runoff waters is considered to be an optimal performance. On the other hand, if the TESC system fails during an unseasonably large storm

within the summer construction period, the site's slopes and adjacency to Patterson Creek guarantee that a disaster would occur. While Patterson Creek adjacent to the site was long ago channeled and degraded, it nonetheless provides juvenile rearing and holding waters for salmonid species that spawn both upstream from the site as well as just downstream in its Canyon Creek tributary. Due to Patterson Creek's low gradient adjacent to the site, substantial sediment deposition at this location would not dissipate but rather would accumulate, thus choking the channel.

36. From the beginning of project review a number of County staff commentators have questioned whether construction phase erosion and sedimentation control measures would be able to adequately control impacts at this location. In August, 1990, Derek Booth, then Manager of the Basin Planning Program at the Surface Water Management Division, offered the following comments on erosion control in response to the proposed Draft EIS then being circulated for the Treemont project:

“Erosion occurs wherever the soils are disturbed, at any slope inclination. The presence of erosion control measures may reduce some of that increased erosion, but the overwhelming evidence is that such measures are rarely installed and maintained correctly and are not fully effective, even if working properly, at eliminating erosion impacts.”

And near the very end of the process, on October 15, 1999, Laura Casey, the DDES Senior Ecologist charged with review of wetland and streams impacts from the Treemont proposal, made the following comment in recommending against approval of the Applicant's proposed new access road:

“Patterson Creek is a major stream that supports salmon species including Chinook, recently listed as threatened under the Endangered Species Act. Construction of this access road would require substantial regrading of a moderately steep and erosive slope and eliminate nearly an acre of wetland (0.82 acres) and a quarter acre of stream buffer (0.22 acres) located immediately upstream of Patterson Creek. A significant risk of increased erosion and sedimentation would result from this road construction. Mitigation measures identified in the EIS include implementation of ‘best management practices’ from the King County Surface Water Design Manual (1998) and an ‘independent’ special inspector (hired and paid by the developer). Success of these measures depends on the good faith of the developer and constant vigilance for the Land Use inspector. Based on my observations of many development sites, in my opinion this cannot be relied upon to mitigate the risk of adverse impact of increased erosion and sedimentation into Patterson Creek.”

37. Area residents who oppose approval of the Treemont plat at the density proposed also were quick to point out the recent problems with construction-generated water quality impacts experienced upriver at the Snoqualmie Ridge project, where 320 violations of water quality standards have been reported since 1995 despite an expenditure by the developer of nearly \$16,000,000 on water quality consultants and erosion control measures. A Seattle Times article dated November 1, 1999, submitted by neighborhood opponents noted that streams that traditionally had had

nephelometric turbidity units (“NTU’s”) below 15 have often exceeded 3,000 NTU’s since construction began at Snoqualmie Ridge, with resultant fish kills ranging between 50 and 90% in two onsite streams.

38. The upper reaches of Patterson Creek provide spawning grounds for Chinook and Coho salmon as well as rainbow and cutthroat trout. A once relatively healthy wild Coho population in the Creek has plummeted since 1985 as an apparent consequence of habitat degradation. The lower reaches of the Creek provide juvenile rearing habitat for all the identified salmonid species, including a population of steelhead that spawns in Canyon Creek. Sedimentation impacts resulting in high turbidity can cause respiration problems to juvenile salmon, eliminate benthic organisms within the fish food chain, induce dysfunctional behavioral modifications, and exacerbate a shortage of dissolved oxygen.
39. In evaluating the potential adverse effects to Patterson Creek from a large erosional event associated with construction of the new access road, one also needs to bear in mind that if Southeast 19th Street is not constructed, the Applicant would be forced instead to perform a major upgrade at Southeast 8th Street, the existing road access to the north. Southeast 8th Street is affected by constraints similar to those identified for the proposed Southeast 19th Street access, that is to say, steep slopes, Patterson Creek nearby, poor sight distance, and the need for an expanded landing at the intersection. Although the length and depth of excavation required to regrade Southeast 8th Street is far less than that proposed at Southeast 19th, the total quantity of soil removal would likely be in the 35,000-40,000 cubic yard range, require easements from adjacent property owners along SR 202 and Southeast 8th Street, and cause a period of disruption of the existing use of the SR 202/Southeast 8th Street intersection. One advantage of the Southeast 19th Street option is that, being an entirely new roadway, its development would not cause the same level of neighborhood inconvenience as would the reconstruction of the existing roadway at Southeast 8th.
40. Controlling the post-construction erosional impacts from Treemont after the site is built out and the Southeast 19th Street roadway cuts healed should be more manageable. All residential development draining to Patterson Creek will receive level 3 detention under the 1998 Surface Water Management Manual plus wetpond and sand filter treatment. However, most of the new access road as well as all of the SR 202 improvements will lie below the level of the R/D pond and therefore will be untreated except for passage through a biofiltration swale. The high level of treatment to be accorded the Patterson basin residential flows, which exceeds applicable 1998 SWM standards, is designed to compensate for the approximately 0.86-acre of roadway construction that will lie down-gradient from the R/D facilities. In addition, mitigation for temperature increases in flows discharged to Patterson Creek from stormwater detained onsite will be provided in the form of tree plantings along the borders of the R/D facilities, by means of additional depth in the sand filter, and through oxygenation at the point of discharge. The Applicant’s geotechnical consultants do not regard loss of summer base flow to Patterson Creek from the diversion variance discussed below to be a major problem due to the prevalence of till in the upland reaches of the site, which results in relatively rapid runoff and low soil moisture retention.

41. As noted above, the dominance of till soils on the upper reaches of the site may also make problematic the density of septic systems proposed for the site. A related concern is whether the existence of glacial till soils over most of the site will cause septic usage to adversely impact area wells offsite at lower elevations. Technical studies have indicated that most offsite wells are drilled into aquifers lying below the glacial till layer and therefore would be protected from contamination. Further, while a few shallow wells exist south of the Treemont site, they appear to be far enough removed from septic drainfields that only a relatively small increase in nitrate and nitrogen levels should be experienced.
42. With respect to the 15-acre Schroeder parcel that lies adjacent to SR 202 and contains the steep slopes that the proposed Southeast 19th Street access road must traverse, under the 1988 regulations in effect at the time of plat application the primary sensitive areas concern was with erosion risks. Ordinance 4365, the County's 1979 Sensitive Areas Ordinance, includes Kitsap series soils as erosion hazard areas and provides authority to condition or deny a subdivision proposal based on a finding of turbidity and pollution impacts to fish-bearing waters, or the need to protect the public from damage due to erosion.
43. Beginning in 1990 the Schroeder parcel would be subject to regulation pursuant to the new Sensitive Areas Ordinance (Ordinance 9614). As such it would be evaluated for erosion hazards, seismic hazards, steep slopes in excess of 40%, wetland alterations, and as a landslide hazard. As an erosion hazard it would be subject to seasonal development limitations, clearing limitations and erosion control requirements. The steep slopes would be required to be set aside in a sensitive areas tract, subject to an exception for the permitted regrading of slopes originally created as part of a previously legal grading activity. To the extent that the slopes proposed to be altered on the Schroeder parcel were created originally as part of the construction of SR 202, regrading of such slopes is permitted. The SAO would not authorize, however, the filling of the farm pond on the Schroeder parcel.

On remand:

44. *The June 5, 2000 County Council remand motion directed the examiner to consider the possibility of eliminating the Southeast 19th Street access road in favor of requiring the plat to employ the existing roadway at Southeast 8th Street. This would require Treemont traffic to exit the plat north through the adjacent 17 lot subdivision for Treemont north, then travel west on Southeast 8th Street to SR 202. As a condition of approving expanded use of the Southeast 8th Street intersection with SR 202, WSDOT would require the addition of left turn and right turn lanes on SR 202 while the County would require reconstruction of Southeast 8th Street to provide a landing at the intersection and an approach not to exceed 15% in grade.*
45. *The Applicant performed a study comparing, under a number of development scenarios, the impacts of reconstructing Southeast 8th Street to those attendant to the construction of Southeast 19th Street. These included build-out of the project at 194 lots as proposed and a 47 lot scenario consistent with the current RA 5 zoning. An 83 lot scenario was also analyzed, with its impacts being only slightly less than those for 194 lots. A variety of construction options were also considered, including the possibility of widening the SR 202 right-of-way on the west side toward Patterson Creek and constructing retaining walls along Southeast 8th Street to eliminate the*

excavation and grading of side slopes. All construction scenarios envisioned regrading Southeast 8th Street to a distance of 800 feet back from the SR 202 intersection. But the channelization requirements along SR 202 vary with the number of lots proposed. For 194 lots the southbound left turn lane required on SR 202 would be 147.6 feet long, while the northbound right turn lane would be 508.6 feet long. At 47 lots the southbound left turn lane is reduced to 98.4 feet, while the northbound right turn pocket would be 164 feet long. For the 83 lot alternative the southbound left turn lane is reduced to the 47 lot length and the northbound right turn lane stays at the 194 lot dimension.

25. *In addition to providing a comparison of impacts at the two access road locations, the Applicant has also further refined its construction proposal for the Southeast 19th Street location. Of particular importance is the proposal to construct Southeast 19th Street using a “top down” procedure. This procedure involves excavating the new roadway beginning at the top of the hill and working down to the bottom. The advantage of this approach is that the undisturbed berm lying downhill of the excavation creates a pit in which the runoff from exposed soils may be collected. A portable pump is installed within the pit and collected runoff is pumped up to the site’s R/D pond for water quality treatment. The top down method also reduces the risk of silty runoff escaping from the excavation area, bypassing water quality treatment and discharging directly to Patterson Creek at the base of the hill. The top down construction procedure can also be used at Southeast 8th Street, but only if the road is closed during the construction period. Other refinements offered by the Applicant to reduce the risk of sediment-laden water escaping from the site include paving the site’s truck haul road and installing a wheel wash at the top of the road, plus the option that silt laden water could be sprayed into an upland forest area rather than released to the drainage system emptying into Patterson Creek.*
47. *Some of the Council’s concern regarding construction of a new road at Southeast 19th Street was focused on the perception that it might result in a costly chronic road failure scenario similar to that experienced over the last twenty years at Sahalee Way. Engineering studies generated to analyze the cause of road failure at Sahalee Way have been introduced into the record. They demonstrate that the physical setting at Sahalee Way is fundamentally different from that at Southeast 19th Street in that the cause of slides at Sahalee Way was the failure of fill located beneath the roadway. Southeast 19th Street, on the other hand, would not be constructed on fill but rather cut into the existing natural hillside. These differences were summarized as follows by the Applicant’s consultant, Associated Earth’s Sciences, Inc., in an October 6, 2000 letter:*

“The landslide activity at Sahalee Way NE is related to the road being constructed atop up to 40 feet of fill placed over weak, saturated slide debris. The combined weight of the road fill, weak underlying soil, and elevated groundwater were the primary causes of the Sahalee Way NE landslide. This slide was remediated by installing drains to lower groundwater levels. In contrast, the proposed SE 19th Street is to be constructed as a cut into the natural, undisturbed (not slide debris) soil. Additionally, groundwater monitoring has shown the subsurface is generally unsaturated with local seepage areas.”
48. *Geologically and topographically, the Southeast 8th and Southeast 19th Street locations are very similar. Both consist of hillsides lying above the Patterson Creek valley featuring soils of a lucustrine variety. The primary difference is that because Southeast 8th Street already exists, the*

major portion of required soil removal has already occurred, and the additional quantity of new excavation necessary to widen SR 202 and reconstruct Southeast 8th Street to current regulatory standards is substantially less. Instead of the 135,000 cubic yards estimated for Southeast 19th Street, the Southeast 8th Street options range from 41,300 cubic yards if side slopes are employed along Southeast 8th Street to 17,300 cubic yards if retaining walls are used.

49. *The significant difference in soils excavation quantities projected for Southeast 19th Street as compared with Southeast 8th Street presents a number of dimensions with respect to evaluating potential impacts. First, the absolute quantity necessarily extends the construction period for Southeast 19th Street from one summer season to two, with the site having to be buttoned up and water treatment and site monitoring conducted for the intervening winter season. Second, the greater quantities and longer site work time necessarily increase the window of opportunity for a catastrophic failure to occur due to an unusually large storm or failure of the site's erosion control procedures. Third, if one assumes that construction flows will eventually be released to Patterson Creek, even with treatment not all sediments will be removed from the site drainage, and the flows entering Patterson Creek will contain a level of turbidity that to some degree exceeds that of the receiving water.*
26. *A further factor involves the need to truck excavated soils offsite from Southeast 19th Street for disposal. Only 10,000 cubic yards are projected for on-site retention for plat development, thus leaving 125,000 cubic yards of soils to be hauled to other destinations. By comparison the amount of soils to be trucked out of the Southeast 8th Street site would be a maximum of 41,300 cubic yards, reduced by about ½ if side slope retaining walls are employed.*

There are two aspects to the trucking issue. One is that even with wheel wash and driveway sweeping procedures, some of the fine soils are likely to escape either on the wheels or from the loaded truck bed itself. The second factor is the increased traffic impacts from the truck hauling. Southeast 19th Street excavation can be expected to generate 15,600 eight-cubic yard single truck loads, which translates to 31,200 round trips. This is more truck trips than can be reasonably accommodated on SR 202 during two summer construction seasons in view of the need to avoid trucking during the most intense commuter traffic periods. The consequence is that soils at Southeast 19th will be stockpiled and hauled out during the winter season as well as the summer. As a result, stockpiles will be exposed to winter rain storms and incur the risk of fugitive escape of silt-laden runoff. By comparison, trucking of materials out of Southeast 8th Street would necessarily need to occur in conjunction with the summer construction window and could be expected to result in intensive truck traffic over an approximately two month period.

27. *The mandate to conduct a review of the impacts attendant to construction of an access road at Southeast 19th as compared with improving the existing access at Southeast 8th Street requires taking a more detailed look at the environmental context of the two locations and the applicable regulatory framework. As noted, the primary geotechnical difference between Southeast 8th and Southeast 19th Streets is that whatever steep slopes may have existed at Southeast 8th Street have already been excavated, while some steep slopes remain adjacent to SR 202 at the Southeast 19th Street site. At Southeast 19th Street the steepest slopes lie adjacent to SR 202 where inclinations exceed 40%. It is clear that the lower portion of these slopes were graded at the time of construction of SR 202, and to that extent they qualify as altered slopes exempt from the sensitive*

areas regulations adopted by the County in 1990. However, the site profiles for Southeast 19th Street show the 40% slopes extending beyond the SR 202 right-of-way a horizontal distance of at least 50 feet, suggesting the possibility that the upper portions of these existing steep slopes may be naturally occurring. If the natural portion of a 40% slope lying above SR 202 contains a vertical elevation change of over 20 feet, its alteration would be prohibited by the 1990 Sensitive Areas Ordinance.

52. *Both the Southeast 8th and Southeast 19th Street sites are characterized by hillside streams that flow into the Patterson Creek valley, with wetland areas located at the base of the streams where they enter the valley floor. In addition, the lower broad expanse of the valley floor adjacent to the creek is a large wetland area. The east side of this wetland expanse is wider and more diverse downslope from Southeast 8th Street than it is adjacent to Southeast 19th Street. The distance between the proposed lower terminus of Southeast 19th Street and Patterson Creek is only 125 feet, while the distance from the end of Southeast 8th Street to the creek is approximately 450 feet. The floodplain wetland adjacent to Southeast 8th Street is a much higher value environmental feature characterized by a large riparian woodland. The wetland adjacent to Patterson Creek at Southeast 19th Street is, on the other hand, a lower value pasture wetland.*
53. *The potential direct stream impacts attributable to the widening of SR 202 at Southeast 8th are greater than those identified for Southeast 19th Street. The widening of SR 202 at Southeast 19th Street involves the extension of a culvert beneath the roadway for one intermittent class 3 stream a distance of 65 feet. The widening of SR 202 at Southeast 8th Street will impact three streams and require 175 feet of new culvert. The two streams on the hillside south of the Southeast 8th Street intersection are intermittent class 3 streams, and 135 feet of the new culvert is required for widening in those locations.*
54. *The only stream with fish-bearing potential among those to be impacted by street widening crosses under SR 202 just north of its intersection with Southeast 8th Street. This stream has a defined cobbled channel and appears to flow year round on the Patterson Creek side of SR 202. It has been observed flowing in the late summer on the upland side, but also reported to dry up at least in some years during the late fall. Although the subject of extensive speculation, not much is actually known about this creek because no one attempted to obtain permission from the property owners whose land the stream traverses to conduct a thorough site investigation. Thus, most of the information obtained is limited to what can be observed from the public right-of-way.*
55. *As a consequence, no one knows whether this stream in fact supports salmonid populations, how far it has a defined channel below SR 202, and what its actual hydrology is. The stream's culvert beneath SR 202 drops about three feet to the downstream channel, thus creating a barrier to upstream fish migration. Nonetheless, due to its apparent hydrology and known channel characteristics, it is presumed to be a class 2 stream with salmonids unless facts are established that justify a lower classification. If deemed a fish-bearing stream, extension of the culvert beneath SR 202 would likely require federal permits and Endangered Species Act review for the in-stream work.*
56. *A recommended condition of mitigation for a permit to extend the stream's culvert to accommodate widening SR 202 is a requirement that the existing culvert be replaced with a new*

facility that would allow fish passage. In the view of DDES staff, the habitat improvement resulting from installation of a fish-friendly culvert on this stream would more than compensate for the relatively greater stream impacts associated with upgrading the SR 202/Southeast 8th intersection: “The benefit gained by replacing the culvert under SR 202 north of Southeast 8th with a fish passable structure on the class 2 salmonid stream would far outweigh the negative impacts of extending culverts for the other two intermittent streams that do not provide fish habitat.”

The disadvantage to this strategy, as emphasized by the Applicant, is that a new set of federal permits would be required for the in-stream work as well as a hydraulics project approval from the state, all of which could require two or more years for agency review and issuance. In addition, due to spacing limitations the Applicant’s engineers do not believe that a culvert channel can be bored beneath SR 202 and that an open cut will be required. The cut would need to be done in two stages, with temporary lanes used to handle SR 202 traffic flows.

57. *Unlike the stream analysis, the wetland evaluation favors the Southeast 8th Street location. Each of the three streams crossing under SR 202 at Southeast 8th Street is characterized by a small bowl-shaped wetland lying at the bottom of the hillside. All three appear to be class 2 riparian wetlands, but the total area of wetland disturbance required for SR 202 widening is only 0.13 acres. Widening SR 202 and constructing the access road at Southeast 19th Street, on the other hand, would require filling 0.82 acres of wetlands. This construction activity would adversely impact portions of five class 3 wetlands but, more critically, would cause a 0.21 acre loss to a class 2 wetland along SR 202 and the filling of a 0.40 acre pond on the upland portion of the Schroeder property.*
58. *The Schroeder farm pond is described within the Treemont Final EIS as an “excavated open water pond ringed by cottonwood, alder, willow, herbaceous plants” and containing a small island. The EIS wetland reports give this pond a class 2 rating under the County system. The pond is further described as follows within the jurisdictional wetland determination for the Schroeder property done by Schapiro and Associates in November, 1991:*

“The excavated pond in the north central portion of the site is approximately one-third acre in area and has no obvious inlets or outlets. It appears to be supplied by groundwater or surface runoff. The pond has steep sides lined with large cobbles, which are bare of vegetation. At the time of Schapiro’s visit, the pond held water to a depth of several feet, well below its capacity. Small trees and shrubs above the water line on the island indicated the water level fluctuates by several feet according to the season.

“... The large excavated pond on the Schroeder property site is identified in the US Fish and Wildlife Service National Wetlands Inventory (1988) as a permanently flooded, excavated palustrine wetland with an unconsolidated bottom.

“... During the site visit, birds observed at the pond included a great blue heron, a belted kingfisher, and several mallards.

“ . . . The roadway extension may necessitate filling part or all of the one- third-acre excavated pond (Wetland A). This would reduce or eliminate wildlife habitat in and around the pond, and reduce or eliminate the stormwater and flood water detention capacity of the pond.”

59. *Under the 1990 Sensitive Areas Ordinance, filling the Schroeder pond for road construction would be prohibited. Under current sensitive areas regulations a wetland road crossing that minimizes wetland impacts, provides mitigation for unavoidable impacts, and does not alter overall wetland hydrology or diminish flood storage capacity would be permitted. But this greater regulatory flexibility would not extend to include total elimination of the wetland feature. The current definition of “wetlands” contained in the Zoning Ordinance excludes from regulation “artificial features created from non-wetland areas including . . . farm ponds and landscape amenities. . . .” In view of the natural groundwater hydrology for the Schroeder pond, it is unlikely that it would qualify as an amenity created from a non-wetland area.*
60. *A final issue relating to wetland and stream impacts concerns the question of whether the fact that Patterson Creek is 325 feet further removed from Southeast 8th Street provides a higher degree of protection to fisheries resources. All other things being equal, it is apparent that if a catastrophic release of sediment-laden water from the construction site occurs, the greater distance such flows must traverse before reaching Patterson Creek offers a greater opportunity for sediments to be filtered and settle out. The Applicant has argued, however, that this benefit of greater distance is negated by the fact that a defined stream channel may exist connecting the north side of the SR 202/Southeast 8th Street intersection to Patterson Creek. The contention is that this channel provides direct transport of silt-laden flows to Patterson Creek even though a greater distance must be traversed.*
61. *As previously noted, the persuasiveness of this argument is undercut by the fact that nobody has adequately investigated the condition of the class 2 creek channel downstream of SR 202 and whether it provides an effective conveyance to Patterson Creek. Furthermore, the stream channel argument is persuasive only if construction runoff is discharged to its flow path. If the Southeast 8th Street location is chosen as the preferable option, a condition of its approval would necessarily have to be that the drainage flow path from the road construction area be engineered to release at one of the other south side culverts that does not convey a defined stream channel. In this way, the environmental benefit derived from greater distance would be maintained, and silt-laden waters would sheet flow through the wetland area.*
28. *The principal argument in favor of preferring the reconstruction of Southeast 8th Street to a new road at Southeast 19th Street results from the fact that because Southeast 8th Street already exists, most necessary excavation has already taken place. This advantage, however, also has its downside, as pointed out by the Applicant. Unlike the Schroeder parcel owned by Port Blakely which is the proposed site for Southeast 19th Street, the Southeast 8th Street right-of-way is surrounded by properties owned by other parties, some of whom may not voluntarily convey the property or easements necessary to support the upgrade. Moreover, existing facilities would need to be reconstructed or relocated to accommodate the Southeast 8th reconstruction proposal. These include a County drainage pond on the south side of Southeast 8th Street as well as*

driveways located on both sides of the street. Expansion of the Southeast 8th Street right-of-way to provide graded slopes and water quality treatment facilities for the construction phase could necessitate the acquisition of more than two acres of new County right-of-way.

63. *The use of retaining walls instead of graded slopes along Southeast 8th Street would make the intrusive nature of the upgrade more manageable. Under this approach an existing driveway on the north side of the roadway that would otherwise need to be relocated could merely be reconstructed in its current location. With retaining walls it is also possible that the County R/D pond could remain at its present site. Further, much of the new right-of-way requirement for retaining wall tie-backs could probably be satisfied through easements rather than outright purchase. Nonetheless, a parcel would need to be obtained at the southeast corner of the intersection for construction of drainage facilities. It appears, however, that this vacant property may be presently for sale, making acquisition of this portion of the needed right-of-way potentially more feasible. Even so, in reviewing the Southeast 8th Street option one must assume that at least some of the affected property owners will be opposed to the project, and therefore if this option is chosen the Council should be prepared to pursue any condemnation proceedings necessary to obtain the required right-of-way.*
64. *A further drawback to choosing the Southeast 8th Street option lies in the fact that efficient and environmentally sound execution of the Southeast 8th Street regrading project will require at least a 60 day closure of the roadway. Without such closure, the preferred top down excavation method cannot be employed and overall construction efficiency will be sacrificed. A road closure at this location will require Southeast 8th Street neighborhood traffic to divert north to Tolt Hill Road in order to access SR 202. Based on a usage of this intersection estimated at 900 vehicles per day, the approximately 300 vehicle cohort that travels north on SR 202 would drive an additional 1/2 mile and experience 5.5 minutes of travel delay. The remaining 600 vehicles that normally go southbound on SR 202 would travel an additional four miles to complete the diversion and experience an extra 9.5 minutes of travel time.*
65. *Besides anticipated neighborhood opposition to a temporary road closure at Southeast 8th Street, it is also worth considering that the County Roads Division staff has provided only a lukewarm endorsement of the idea. Staff appears to be willing to endorse a sixty day closure but only if that closure is acceptable to the local fire district in terms of increased emergency response times. Some relief from the inconvenience of a road closure may possibly be obtained by providing access to SR 202 through the construction area during times when no work is occurring.*
66. *A major area of disagreement between the Applicant and neighborhood opponents of the Treemont project centers upon the practical feasibility of the elaborate engineering solutions offered in support of the Southeast 19th Street option. While the quality of the Applicant's conceptual engineering plans cannot be faulted, the question always remains whether the perfect project execution described in the hearing room can be replicated on the ground. Excavating 135,000 cubic yards of soils is not brain surgery, and a certain degree of skepticism is always warranted as to whether perfectly laid plans will be carried out exactly as described. This question of credibility has led to detailed examination of similar projects at other sites within the County. Port Blakely is the developer responsible for the construction of the South SPAR Road*

connection to I-90 and has introduced to the record documents describing to that project and its success at excavating a hillside road above the north fork of Issaquah Creek. The SPAR project involves top down construction, excavation of a larger total amount of soils, and a detailed and thorough monitoring regime. Primary differences between the South SPAR project and the Southeast 19th proposal include the fact that excavated soils from South SPAR construction are nearly all retained at other locations on the Issaquah Highlands site, that storm water from construction runoff at South SPAR is capable of being infiltrated on site, and that the infiltration pond for the South SPAR lies down-gradient from most of the construction area so that most drainage reaches the pond through gravity flow. The pond is outfitted with a pump only as a backup mitigation measure in the event that the infiltration area fails to work.

Neighborhood opponents, on the other hand, have focused on nearby projects such as Aldarra and Treemont North, where turbid discharges from construction sites have been documented to occur. The Aldarra water quality citations are primarily from the golf course construction phase, which differs from the Southeast 19th project in being characterized by a vastly greater area of soils exposure.

29. *Comparing the potential impacts of access road construction at Southeast 19th Street with the reconstruction of Southeast 8th Street involves analysis of a broad array of variables, the ultimate outcome of which depends on the relative weight that a reviewer gives to the elements presented. As expressed in its remand report, DDES staff's position is that Southeast 8th Street is the preferable option:*

"The sheer volume of material to be moved, the proximity to Patterson Creek, and the requirement to work over two construction seasons indicate that the construction of Southeast 19th Street would pose a greater risk to Patterson Creek, its salmonid inhabitat, and its associated wetlands than road improvements at Southeast 8th Street and SR 202."

Based on a site visit made on October 9, 2001, DDES staff fisheries biologist Steven Conroy came to a similar preliminary conclusion:

"The quantities of earthwork proposed for the Southeast 19th access, when combined with the steep slopes, timeframe and the proximity to Patterson Creek suggests that the risk of significant adverse environmental impacts from erosion, sediment input to Patterson Creek and potential landslides are substantially greater for the Southeast 19th site. Therefore, my preliminary recommendation would be to require use of the Southeast 8th access, not the Southeast 19th access."

68. *Not surprisingly, the Applicant's consultants have come to a somewhat different conclusion. The Applicant's wetland biologist, Gail Brooks, in assessing wetland impacts provided her "opinion that, based on a review of field conditions, the nature of the resources involved, and the nature of the work to be performed, the impacts to overall environmental resources are potentially greater with the Southeast 19th Street alternative than the Southeast 8th alternative, but are not significantly greater."*

Biologist Carl Hadley, reviewing potential fisheries impacts, came to the following conclusion:

“While both routes could likely be built successfully with little impact to the natural environment, the SE 19th Street route is less likely to create the risk of short term impacts to fish-bearing streams and should result in significantly less long term impact to aquatic features. It would also not require work within a fish-bearing stream or filling of wetlands associated with a fish-bearing stream as construction at the SE 8th Street location would. The fish-bearing stream near SE 8th Street likely provides year-round rearing for resident trout and coho salmon juveniles downstream of SR 202. As a result, the risk of both short term and long term impacts, while not high, it is greater than at SE 19th. ”

69. *In the absence of catastrophic mitigation system failure during a major storm event, it is the examiner’s view that the construction risk to streams at both the Southeast 8th and Southeast 19th Street locations is relatively minor. The intermittent streams at both locations are relatively inconsequential in terms of habitat value, and the salmonid use of the potential class 2 stream at or near the Southeast 8th intersection is speculative. What is currently known for the class 2 stream is that habitat and hydrology sufficient to support salmonids is present, not that any actual use occurs. The existing culvert under SR 202 is almost certainly a fish passage barrier, and its replacement would confer a long term benefit in excess of any negative disturbance attendant to its replacement and extension. The wetlands impacts at the two locations would be relatively equivalent but for the loss of the farm pond. Even though it is an artificial feature, the Schroeder pond is a long-established amenity fed by natural hydrology and possesses habitat value.*

In the event of a major release of silt-laden water from either location, the greater distance to Patterson Creek at Southeast 8th Street provides significant buffering of impacts to fisheries resources. The construction site can be engineered so that overflow avoids the class 2 stream channel and wetland buffering effects are maximized. Southeast 19th Street is not only closer to Patterson Creek, but in actuality is very close, and if an emergency situation developed just uphill, virtually no time would be available for implementing intervention responses.

70. *The primary liabilities of the Southeast 19th Street site are its proximity to Patterson Creek, the vastly larger quantities of soils to be removed from the site and the fact that two construction seasons will be required. However the probabilities are calculated, greater soils quantities translate into a higher level of risk that sediment will escape from the site and enter the creek system. And the need to spread the work out over two summer construction seasons means that the site will need to be buttoned up and monitored over a winter rainy season. This greatly extends the time of exposure to risk and virtually assures that major rainfall events will be encountered. With a half-constructed road down the side of the slope, satisfactory mitigation will require frequent pumping and constant monitoring. If the soil berm holding back the runoff water within the excavated channel contains a layer of sand, during a long winter storm there is a risk of sand lens saturation and berm failure. Finally, the need to stockpile soils onsite and truck them off during the winter season means that site closure will not be complete, and exposure of stockpiled soils to storm events is likely. This would create an increased risk of fugitive sedimentation impacts.*

71. *Both sites will necessitate an element of public inconvenience during the construction process. Southeast 19th will generate approximately 30,000 single load truck trips in and out of the site for soils removal. If constructed with soldier pile retaining walls, Southeast 8th Street can reduce off site soils export to a minimum level. Instead, it will create short term impacts to the neighborhood resulting from a two month summer closure of Southeast 8th Street for construction of the roadway. Further, if Southeast 8th is chosen as the preferable option and additional right-of-way cannot be obtained through voluntary negotiations, the County will need to institute condemnation proceedings to obtain the right-of-way required.*
72. *After site development the primary adverse consequence of construction of the Southeast 19th Street option will occur in the area of water quality. Instead of having only one road within the Patterson Creek basin in this general vicinity, there will now be two roads. The risk parameters identified within the Patterson Creek water quality profile include turbidity, depressed dissolved oxygen levels, high fecal coliforms, high summer temperatures and elevated levels of copper and zinc. A portion of the road improvements for Southeast 19th Street and along SR 202 totaling slightly less than an acre would discharge to Patterson Creek without treatment because such facilities lie below the elevation of the proposed Treemont water quality ponds. Indeed, one of the primary motivations to add a sand filter system to the Treemont R/D complex was to overcompensate for the lack of treatment of road runoff. This untreated road runoff will exceed Patterson Creek background levels for copper, zinc, lead, iron, phosphorous, turbidity, total suspended solids, fecal coliforms, and oil and grease. For three of these parameters--copper, turbidity and fecal coliforms--site discharges will also exceed the background levels for Patterson Creek after untreated roadway runoff is mixed with other treated Treemont flows. On the other hand, if Southeast 8th Street is reconstructed instead of Southeast 19th Street, not only will the additional water quality impacts from a second steep roadway be eliminated but improved treatment of existing Southeast 8th Street flows will also be provided, resulting in a net gain in the quality of water discharged to Patterson Creek rather than a net loss.*

DRAINAGE AND FLOODING

73. Any discussion of the drainage plans for Treemont is dominated by two considerations. First, a major surface water diversion variance granted to the Applicant on October 5, 1999, allows approximately 103 acres within the plat to be diverted from the Patterson Creek drainage basin to the Snoqualmie River via a tightline slightly more than one mile in length. The second consideration arises from the fears and concerns of residents who live within the Patterson Creek and Snoqualmie River Valleys and anticipate that increased drainage from urban density development at Treemont will exacerbate the flooding of their properties. Two of the most active participants in the public hearing on this proposal were Robert Seana and Erick Haakenson, both of whom own farms located in the floodplain north of the proposed Treemont outfall to the Snoqualmie River. Mr. Seana's property in fact abuts the proposed pipeline easement route across the floodplain which is proposed to be located along the northern boundary of the Tall Chief Golf Course.
74. The essential rationale for the tightline is compelling. There are no established drainage channels through the steep slopes on the eastern boundary of the Treemont site, and drainage

discharged onto such slopes would inevitably create disastrous consequences to lower lying properties. Thus the need for some form of artificial conveyance of Snoqualmie basin runoff is beyond dispute if Treemont is to be developed at the density proposed.

75. There are also sound reasons for diverting flows away from Patterson Creek and into the Snoqualmie River basin. Patterson Creek, with its relatively low flows and flat lower reaches, is sensitive both to increases in runoff volumes as well as to sedimentation and water quality impacts from urban runoff. Because the Snoqualmie River and its contributing watershed are so much larger, they are better able to absorb runoff impacts from Treemont without adverse impacts. Having initially explored and rejected the possibility of onsite infiltration due to the prevalence of impermeable till soils, the solution proposed by the Applicant and approved within the SWM embodies an improvement over the impacts that would result from discharge of site runoff to the predevelopment basins as normally required.
76. By diverting flows to the Snoqualmie basin and treating the remaining Patterson Creek flows to a standard that exceeds 1998 SWM requirements, the Applicant predicts that site drainage impacts to Patterson Creek will actually be lower in the developed state than they are within the existing predevelopment condition. The diversion only allows peak flow rates from the site to Patterson Creek to decrease from approximately 25 cubic feet per second (“cfs”) for the 100-year storm event to 17 cfs.
77. Although runoff directed to the Snoqualmie River basin will receive water quality treatment prior to release, no onsite detention of runoff is proposed. This is because the Snoqualmie River is identified within the County’s Surface Water Manual as a designated receiving water for the direct discharge of drainage flows. The theory supporting direct discharge of runoff to the Snoqualmie River has two aspects: first, that its flow volumes are so large that additional site-generated volumes will have a minimal effect, and second, that direct discharge to the River of flows from the lower basin will allow them to clear the system before much larger flows from the upper reaches of the watershed have arrived downstream. According to this theory, onsite detention of lower basin flows actually could be counterproductive in that the delay of peak discharges would overlap with upriver peak volumes.
78. Under the terms of the 1998 SWM Manual, direct discharge from the site to the Snoqualmie River is permitted if tightlining the flows is proposed and “the flow path from the project site discharge point to the edge of the 100-year floodplain” is no greater than one-quarter mile in length. The essential requirements of the SWM manual are met by the Treemont drainage proposal. Although the distance from the plat’s Snoqualmie basin water quality pond to the 100-year floodplain edge as traversed by the tightline is nearly a mile, the pipeline route cuts across the slope and does not represent the natural flow path from the site. Flows from Treemont to the Snoqualmie River sheet flow over steep slopes, and therefore this portion of the site does not have a single natural discharge point. As shown within exhibit 172, most of the eastern boundary for Treemont is within ¼ mile of the 100-year floodplain for the river. Thus, the quarter mile requirement stated in SWM manual section 1.2.3 is met. It is also worth noting that the quarter mile limit is not an impact related standard, but exists to discourage the transfer of flows from one basin to another. In the case of Treemont, all flows are eventually discharged to the

Snoqualmie River whether they are transported there directly by a tightline or arrive along a more circuitous route via Patterson Creek.

79. As described within the Final EIS,

“The Snoqualmie River in the vicinity of the proposed stormwater outfall runs through a broad flat valley containing low density rural uses and numerous dairy farms. The Snoqualmie River downstream of RM 33 is described as a slow, deep slough confined within diked banks with heavy mud and silt bottoms. . . .The River in the vicinity of the stormwater outfall is characterized by a long flat glide within a gently curving stretch of river. The stream banks rise steeply from the channel along both sides of the River and are densely vegetated with Himalayan blackberry and reed canary grass. A few young alder and cottonwood are scattered along the banks.”

This portion of the Snoqualmie River is characterized by a serpentine meandering pattern within a broad flat floodplain. Mr. Seana’s house, for example, lies at one end of an S-curve within the river. Thus, if one were to travel due east from his house one would cross the river three times within a span of about 3,000 feet. Moreover, Mr. Seana’s house lies just east of the southern end of Stickney Slough, a remnant river channel feature that demonstrates that the river section which now curves east of Mr. Seana’s residence in the not too distant past followed a channel west of the house location. In view of this low lying remnant channel feature, it is not surprising that Mr. Seana reports that river floodwaters often congregate at the old channel behind his house, a situation which can be exacerbated when Patterson Creek (which enters the river some 2,500 feet upstream of his property) is also at flood stage.

80. Mr. Seana’s house, which lies about 500 feet west of the river channel’s edge, is not only within the 100-year floodplain but within the floodway as well. Mr. Seana’s concern is that the flooding that historically has occurred on his property appears to be increasing in frequency, a trend that appears especially evidenced during the last three years. He and his neighbors postulate that this observed increase in flooding frequency, often occurring during lower rainfall events and when there is no snow pack in the upper watershed, is the consequence of increase urban runoff being directed to the Patterson Creek system. In support of this contention, Mr. Seana’s neighbor, Erick Haakenson, submitted a graph tracing the correspondence between flow volumes at Snoqualmie Falls and gauge height readings downstream at Carnation. As described by Mr. Haakenson, since 1997 there has emerged a pattern where the downstream gauge height readings have increased relative to flow volumes over the Falls. Mr. Haakensen argues that this shift suggests an increasing influence on Carnation gauge height readings of downstream flow sources other than upstream snowmelt passing over the Falls.
81. The major problem with Mr. Haakensen’s interpretation is simply that the river system is sufficiently complex that a two or three year data set is inadequate to support firm inferences and conclusions. Even assuming that the trend identified by Mr. Haakensen is later found to continue over a statistically significant length of time, one must still account for other inputs into the system before one can conclude that urban runoff increases are the primary culprit. In particular, due to ongoing deposition processes, one would need to assess the effect of channel volume loss on the flooding phenomenon. The County, as well as other jurisdictions around the state, have a

historical love-hate relationship with respect to channel dredging and gravel bar removal. The policy preference is to avoid tampering with natural processes, but when accumulated channel deposition results in extreme flooding, this policy undergoes temporary alteration in order to provide relief for distressed floodplain property owners.

82. Beyond the problems attendant to determining causality, there is an important policy question as to whether the burden of identifying and solving a regional problem should be placed upon an individual development applicant. The Snoqualmie River watershed covers more than 600 square miles, and the river itself carries approximately 73,000 cubic feet per second during the 100-year flood event. The current contribution of the undeveloped Treemont site to this volume for the 100-year event is about 27 cfs, an amount that is projected to increase after development another 47 cfs to 74 cfs. The calculated effect of this additional contribution is an increase of $4/1000^{\text{th}}$ of a foot to flood heights measured at the Carnation gauge. This is by any standard an infinitesimally small additional contribution.
83. A great weakness of the development permit review process is its inability to deal effectively with cumulative impacts within a context where any individual contribution is too small to justify separate regulatory treatment. In such instances, one can only conclude that such cumulative effects must be regarded as regional in nature and in need of a public solution. If a comprehensive hydraulic analysis of the Snoqualmie River flood condition is required, it needs to be a publicly funded endeavor and not one that is visited arbitrarily upon whichever permit applicant happens to be standing at the door when the issue is raised.

This conclusion is further underscored by the County's current regulatory stance as manifested in the Surface Water Manual's direct discharge policy. In reviewing the textual discussion for Core Requirement No. 2 within the 1998 SWM Manual, one finds that the tiny calculated flood height increase attributable to Treemont is well below the current regulatory minimum for determining the existence of a severe flooding problem within the 100-year floodplain. Moreover, wherever a receiving water designation has been determined to apply, the Manual deems any increase in a project's contribution to flooding problems to be negligible for regulatory purposes unless it also results in increased flooding outside the 100-year floodplain.

84. Mr. Seana has also attempted to argue that the proximity of the outfall to his property will somehow exacerbate flooding problems locally in a way which substantially exceeds the percentage of Treemont's contribution to overall river volumes. He has presented, however, no technical analysis to support his position. During flood stage conditions the proposed outfall from the Treemont pipe will be effectively in the middle of the river, and common sense suggests that a relatively minute additional quantity discharged at this location will have no discernable local effect.
85. Further issues exist with respect to the pipeline system proposed by the Applicant. Mr. Monahan, a neighborhood resident of long-standing, has questioned whether requiring a pipeline overflow outletting to a potentially erosional ravine was a wise choice. As explained by the Applicant's engineer, he could identify no better place for an overflow mechanism to be sited, but the pipe's oversized capacity at 30% greater than 100-year storm event volumes reduces the risk of actual overflow events occurring to a negligible level.

A second concern regarding the outfall pipe design raised within the County review process was the potential that the outfall culvert to the river might become blocked with sediment. The SWM diversion variance responds to this criticism by requiring the catch basin on the east side of the West Snoqualmie River Road to be outfitted with a low-head neoprene flapgate to prevent high river stages from backflowing into the direct discharge line and depositing sediment. Nonetheless, this flapgate will lie about 50 feet above the river outfall, thus likely requiring periodic maintenance of the lower pipe structure.

86. Other issues have been raised relating to the proposed drainage system. Residents south of the plat site are concerned that uncontrolled runoff from Treemont may cause flooding within the roadside culvert systems in their neighborhood. If anything, however, uncontrolled flows offsite to the south should be reduced after development to the extent that the Treemont drainage system will pick up flows that now trend towards the south and redirect them to the onsite treatment ponds.

There are also unresolved issues with respect to the design of the facilities that will serve the portion of the site continuing to drain to Patterson Creek. In particular, technical review has suggested there may be problems with constructing pond berms on the lacustrine soils within the Schroeder parcel, and more detail will be required regarding design of the proposed dewatering system within the graded slopes below the Schroeder pond. These matters will need to be addressed at engineering review.

87. Finally, the SWM diversion variance conditionally permits the transfer of flows from 16.5 acres within sub-basins P-7 and P-8 in the northern portion of the site to the Treemont North R/D system. It is our view that this diversion is not advisable due to the fact that such flows eventually will be discharged to the Southeast 8th Street ditch system, which has a history of flooding. In addition, the Treemont North R/D facility has been designed to 1990 SWM standards, which are less stringent than those proposed for the onsite Patterson Creek drainage facility. Superior detention and water quality treatment will be obtained if the P-7 and P-8 sub-basin flows are directed to the treatment facilities within the Schroeder parcel.

On remand:

88. *The Council remand motion directs the Examiner to revisit some of the issues surrounding the diversion of drainage flows from the Patterson Creek subbasin to the Snoqualmie River. The directive is to study whether through reduction of the number of lots the diversion of flows to the Snoqualmie River can be minimized or eliminated and what effect such action might have on flooding conditions. In addition, the remand requires the completion of a level III downstream analysis.*
89. *Exhibit 171 is the Applicant's alternative drainage plan analysis. It undertakes to quantify and evaluate Treemont's effect on Patterson Creek and the Snoqualmie River under a variety of construction scenarios in which the tightline is eliminated and three different levels of lot development are postulated. The three levels of development include the Applicant's proposal at 194 lots as provided under the 1988 G-classification zoning, a 47 lot alternative consistent with*

the site's current RA 5 zoning, and an 83 lot option that corresponds to the maximum number of lots that could be developed using Southeast 8th Street as an access if the County's 100 lot rule were applied to the project.

90. *Drainage concept no. 1 within the alternatives analysis corresponds to the Applicant's proposal. That is, it diverts 103 acres from the Patterson Creek drainage to the Snoqualmie River and conveys these flows in a tightline across steep slopes and the Tall Chief Golf Course to discharge to the Snoqualmie River. With the diversion in effect, the total volumes discharged to Patterson Creek would be lower after development than they are in the current state. The Treemont site currently discharges 306.5 acre feet of surface flows annually to Patterson Creek, and after development (with the diversion) that amount ranges between 283.12 acre feet for 194 lots and 267.04 acre feet for 47 lots. For concept no. 1 the direct discharge to the Snoqualmie River measured in cubic feet per second for the 100-year storm event ranges between 56.89 cfs for 194 lots and 53.56 cfs for the 47 lot option. The 100-year storm event discharge from Treemont in the predevelopment condition is calculated to be 8.9 cfs.*
91. *Drainage concept no. 2 retains the tightline but eliminates the diversion of flows from Patterson Creek to the Snoqualmie River. The plat layouts for concepts 1 and 2 are identical as are the calculations for each lot level of impervious area. The difference at 194 lots is that without the diversion the total impervious area for the Patterson Creek subbasin increases about 8 acres and the number of lots is increased by about 50. This results in approximately 100 acre feet more of surface flows being discharged annually to Patterson Creek and a corresponding reduction of approximately 20 cfs for the Snoqualmie River 100-year storm peak discharge. At the lower end, for the 47 lot option the annual discharge to Patterson Creek is calculated to be 364.66 acre feet without the diversion, nearly 60 acre feet in excess of the pre-development condition. For the Snoqualmie Basin, at 47 lots the 100-year storm peak discharge is 33.67 cfs, a little more than 2 cfs less than the 194 lot discharge under the same assumptions.*
30. *Drainage concept no. 3 within the alternatives study postulated no diversion of flows from the Patterson Creek sub-basin to the Snoqualmie River and a partial tightline over the steep slopes that would terminate on the Tall Chief Golf Course. From there flows would travel overland to the Snoqualmie River. The analysis of concept 3 did not proceed beyond a determination that the Tall Chief Golf Course will not entertain granting the drainage easements required to implement this alternative.*
31. *Finally, drainage concept no. 4 within the alternative drainage analysis eliminates both the diversion and the tightline. Without the tightline, due to the existence of steep erosional slopes in the downstream conveyance path, no surface flows from the Snoqualmie River basin of the plat can be discharged off site. In other words, all Snoqualmie basin flows would need to be infiltrated. As noted previously, the impervious till layer underlying the eastern portion of the Treemont property at a shallow depth precludes any significantly amount of infiltration. For purposes of this study, the Applicant's engineers assumed that a minor amount of infiltration could be accomplished near the site's eastern boundary. Based on this assumption, they posited the development of six large lots within the Snoqualmie River basin of the plat, with the remainder of the lots concentrated on the Patterson Creek portion of the site.*

94. *Concept no. 4 forces a radical redesign of the plat layout. For the maximum lot development option concept no. 4, like concept no. 2, places 127 lots in the Patterson Creek sub-basin, but because only six lots can be supported in the Snoqualmie sub-basin, the maximum quantity of development is identified as 133 lots. The large lot configuration required by concept no. 4 also alters the impervious area calculations for the proposal, with the total impervious acreage declining due to the large lot format on the site's eastern flank. Under concept no. 4 the annual volumes discharged to Patterson Creek remain the same as under concept no. 2, but discharges to the Snoqualmie River are eliminated entirely.*
95. *The decision as to which ought to be the preferred choice among the various alternatives analyzed ultimately depends on whether one views avoiding discharges to the Snoqualmie River as being more important than a reduction of such impacts to Patterson Creek. While the tightline proposed by the Applicant is more than one mile in length, it is not a unique facility and its engineering requirements are easily identified. For Treemont the tightline design requires sufficient capacity to convey the 100-year storm with an additional 30% margin of safety. While the system involves construction of an overflow outlet at the top of the steep slopes, the need for such a mechanism is only theoretical. The chances of this system overflowing are negligible.*
96. *The rationale supporting the proposed diversion of flows from Patterson Creek to the Snoqualmie River is based on the huge discrepancy in the relative sizes of the two stream systems. The calculated 100-year storm event flow for the Snoqualmie River is 73,000 cfs. By comparison, the flows for the 100-year event on Patterson Creek are calculated at 450 cfs. Accordingly, the relative impact of a single unit of drainage flow on Patterson Creek is more than 150 times greater than the equivalent impact on the Snoqualmie River. Since for the 100-year storm the effect of Treemont discharge on the Snoqualmie River is a maximum computed elevation rise of 4/1,000's of a foot (0.004), this immeasurably small impact appears to be an acceptable tradeoff in order to obtain a relatively greater benefit by reducing flow volumes to flood-prone Patterson Creek.*
97. *The record amply demonstrates that chronic flooding problems in the lower reaches of Patterson Creek are a recurring problem for area residents and property owners. The principal factors that contribute to this flooding situation are a relatively flat stream gradient, channel constrictions at the Duthie Hill Road bridge and further downstream at the 300th Avenue SE bridge, plus backwater effects at the mouth of the creek created by Snoqualmie River flows. Although arguing against the diversion of flows to the Snoqualmie River, the testimony of area resident Robert Seana supports the perception that flooding of Patterson Creek is a more frequent and persistent problem than Snoqualmie River flooding. In his testimony (see exhibit 208) Mr. Seana described Patterson Creek as flooding at its mouth "at least ten times per year". On the other hand, according to Mr. Seana the Snoqualmie River floods "about three times per year". While Mr. Seana's intended point was that the combination of flooding upon both Patterson Creek and Snoqualmie River creates an especially dangerous condition for area residents, this fact in itself does not argue against diverting flows away from Patterson Creek.*
98. *Both Mr. Seana and his neighbor, Mr. Haakenson, live on the Snoqualmie River in the floodway downstream from the mouth of Patterson Creek. Therefore, every drop of surface water runoff that leaves the Treemont site will pass by both the Seana and Haakenson properties. It is simply*

a question of when that water arrives and what route it takes. Flows that are conveyed from Treemont to Patterson Creek will travel about three miles before reaching the Seana property, while flows discharged to the river directly via the tightline will arrive after traveling a little more than a mile. The difference between the two scenarios is that the flows directly discharged to the river will arrive at the Seana property sooner while the Patterson Creek drainage flows will be partially detained, take a longer route and arrive later. Since peak flows in the river lag behind peak rainfall measurements by about two days, there is an advantage to direct discharge because it enables Treemont flows to clear the Snoqualmie River before the peak flooding stage generated by upriver rainfall reaches the valley. In addition, Treemont flows that have been diverted and tightlined to the river will have no flooding impact on Patterson Creek, a clearly beneficial effect.

99. *Beyond questions of flooding impacts, the other primary issue raised by the diversion of flows away from the Patterson Creek drainage relates to potential fisheries impacts. Optimal instream temperatures for salmonids are targeted at about 14 degrees C, with adverse impacts expected at about 18 degrees C and lethal consequences at 22 degrees C. The lower reaches of Patterson Creek show reported maximum summer temperatures of about 17.5 degrees and levels above 14 degrees consistently from May through August. The concern is, therefore, that a diversion of flows from Patterson Creek sub-basin to the Snoqualmie River may reduce summer base flows and result in a further elevation of creek temperatures.*
100. *Summer low flows at the Canyon Creek gauge on Patterson Creek generally range between 5 and 11 cfs and have been reported as low as 4 cfs. By comparison, average wet season flows at the same location range between 10 and 67 cfs. Given the fact that Patterson Creek is a warmer than average stream, both summer temperature levels and low flow rates can be seen as a limitation on the stream's salmonid productivity. Nonetheless, the diversion of flows to the Snoqualmie River is not expected to adversely impact base flows to Patterson Creek. Treemont soils have a low degree of permeability and do not retain a great deal of moisture. Thus interflow from the site to Patterson Creek is relatively minor. The base flow issue was analyzed by the Applicant's consultants for its diversion variance request and the following conclusions were reached:*

"Diversion of area away from Patterson Creek from its natural point of discharge will not significantly affect Patterson Creek base flows. All significant on site springs/seeps/wetlands which contribute to the base flow of Patterson Creek have been identified and are proposed to be preserved and located in sensitive areas tracts with appropriate buffers. The natural flow pass of discharges from onsite springs/seeps/wetlands will not be altered. Flow pass and drainage courses conveying base flows to Patterson Creek are proposed to be preserved and located in sensitive area tracts with appropriate buffers.

"Diversion of area away from Patterson Creek will not significantly affect the recharge of springs/seeps/wetlands which contribute to the base flow of Patterson Creek. The project's geotechnical consultant has determined that the significant drainage courses on the site which contribute base flow to Patterson Creek are not fed by surficial aquifers or interflow."

PHASED ENGINEERING REVIEW

101. *The Council remand motion required deletion from the February 2, 2000 report and recommendation a portion of condition 7a that authorized DDES to issue an “early start” clearing and grading permit. This is a ministerial procedure that allows phased review of engineering plans so that clearing and grading of a site may commence while ultimate design details such as park landscaping or buffer plans are still being reviewed. Because final engineering plan approval is a comprehensive review process, the concept allows staged review of large sites so that previously approved elements of the package may be implemented while other details are still working through the system. The purpose of phased engineering review has been summarized within exhibit 174 by the Applicant’s engineer:*

“In theory, review of the various plan elements is concurrent, but in practice it is frequently sequential. Often, clearing, grading and road designs are reviewed and essentially approved, but final approval of the total permit packages is delayed while relatively minor items . . . are hashed out. In many cases this can significantly delay the start of construction while minor details are resolved. This can have major ramifications because King County code restricts the construction season for subdivisions to the drier months of May through September to reduce the potential for erosion/sedimentation impacts. This is a relatively short construction window, particularly for large projects. If delays in plan approval significantly shorten the available construction window, construction can be extended for several seasons which can significantly increase the potential for erosion/sedimentation impacts. The phased engineering review process was created to address this procedural issue.”

ROADS AND TRAFFIC

102. The EIS traffic study done for Treemont by the Transpo Group was based on the County’s Integrated Transportation Program standards adopted in late 1995 and is probably the weakest link in the chain of technical documents generated for this proposal. Owing to more than a decade of rapid development, nearly all of the critical intersections serving the Sammamish Plateau are currently operating at unacceptable levels of service. This includes, on the north, the SR 202 corridor from Sahalee Way west to SR 520, and on the south the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection and the nearby access ramps to I-90. Because a forthright discussion of these problems would impede the smooth flow of permit approvals, consultants dealing with Plateau traffic have developed a number of strategies for understating the relevant traffic impacts of their projects. One is to simply ignore those intersections that are not under King County jurisdiction, and a second is to refrain from analyzing fully the effects of regional congestion on specific intersections under review. Thus, in pursuit of the former strategy, the Transpo study contains no meaningful analysis of current congestion at the I-90/Issaquah ramps nor of the SR 202 corridor within Redmond.
103. The three major regional intersections analyzed by Transpo under the Intersection Standards enacted in 1995 were SR 202/Sahalee Way, Issaquah-Fall City Road/East Lake Sammamish

Parkway, and Issaquah-Fall City Road/Issaquah-Pine Lake Road. Within the Draft EIS Addendum issued in March, 1999, the Transpo Group only identified one LOS F existing condition, which was for the PM-peak hour at Issaquah-Fall City Road/East Lake Sammamish Parkway. For all other movements at the three intersections, acceptable levels of service were posited, including AM-peak hour LOS D's at SR 202/Sahalee Way and Issaquah-Fall City Road/East Lake Sammamish Parkway and a breathtaking LOS B-C (with a 14.6 second average vehicle delay) at SR 202/Sahalee Way during the PM-peak hour.

104. To their credit, the Final EIS editors rejected the favorable LOS descriptions for SR 202/Sahalee Way as being unacceptable. The following statement is found at page 2.5-5 of the Final EIS:

“The intersection of SR 202/Sahalee Way was reported in the EIS Addendum (Table 2.5-1) to operate as LOS D during the AM-peak hour and LOS B-C during PM-peak hour based on existing traffic volumes. Subsequent field observations at the intersection indicate that the intersection operates at LOS F during the AM-peak hour. This poor level of service results from westbound traffic on SR 202 backing up from west of the 204th Place Northeast intersection. This backup on SR 202 inhibits traffic flow through the SR 202/Sahalee Way intersection, resulting in a lower traffic volume through the intersection and, in turn, a better calculated level of service than actually exists.

“During the PM-peak hour, eastbound traffic on SR 202 is also constrained on the two lane section of the roadway west of Sahalee Way. This results in a lower traffic volume at the intersection of SR 202/Sahalee Way. Observations indicate that the LOS B arriving is correct based on the traffic that is actually able to reach the intersection during the peak hour. However, the actual demands would be significantly higher than the traffic counts indicate, since vehicles cannot reach the intersection due to the capacity restriction along SR 202 west of Sahalee Way.”

105. In other words, if one takes an isolated look at simply the vehicle counts at a particular intersection subject to regional congestion, there can be the illusion of an acceptable level of service due to the fact that congestion before or after the intersection (or both) depresses the vehicle counts below the intersection's rated capacity. In order to derive a meaningful level of service at such an intersection, it is necessary to calculate the vehicle demand at such intersection assuming free flow conditions. When this is done, the illusion of a satisfactory level of service disappears and the true level of service F condition emerges. For the SR 202/Sahalee Way intersection, traffic to the west is backed up solid during the PM-peak hour from SR 520 east through the East Lake Sammamish Parkway intersection to Sahalee Way. In the AM-peak this sea of motor vehicles extends south of the intersection along Sahalee Way and east along SR 202.
106. That a similar analysis is applicable to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection during the AM-peak hour is indicated by Transpo within a footnote. Thus while Table 2.5-1 within the Final EIS shows a LOS D during the AM-peak at Issaquah-Fall City Road/East Lake Sammamish Parkway, the footnote states that this level of service “does not account for effect of queues from I-90 ramp intersections; operates at LOS F with I-90 ramp queues included.”

107. A second problem emerges with respect to the trip distribution contained in the Transpo report. The traffic study for Treemont was based on a 2003 horizon year for the project. But its analysis of traffic conditions at the south end of the Plateau is predicated upon completion of the new SPAR access road to I-90 and related upgrades to the Sunset Interchange. Since the relevant future conditions analysis was taken from previous traffic studies for the SPAR project that are based on a 2015 buildout timeframe, the Transpo study contains some trip distribution assumptions that may be appropriate for 2015 but do not apply to 2003.

At the north end of the Plateau within the SR 202 corridor this includes a distribution of 7% of Treemont's westbound traffic north on 236th Avenue Northeast to access the as yet largely unconstructed Redmond Ridge UPD project, and on the south a diversion of 5% of project traffic along the Issaquah-Fall City Road to the currently nonexistent Issaquah Highlands project. If 2% of project traffic is assigned to 236th Avenue Northeast for the 2003 horizon year and the remaining 10% of the fictitious distribution reallocated to other routes proportionately, the percentage of project traffic assigned to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection rises from 38 to 43% and the percentage at SR 202/Sahalee Way goes to 18%. Based on the EIS overall trip generation figures, this results in 60.5 trips being assigned to Issaquah-Fall City Road/East Lake Sammamish Parkway intersection during the AM-peak and 82 trips during the PM-peak. For SR 202/Sahalee Way the revised figures are 26 trips during the AM-peak and 35 trips during the PM-peak hour.

108. The assignment of Treemont traffic among South Plateau roads and intersections is predicted to change dramatically once the SPAR and Sunset Interchange projects are completed. At that time 56 % of the project traffic currently assigned to the Issaquah-Fall City/East Lake Sammamish Parkway intersection becomes diverted to the SPAR connection and the Sunset Interchange. Even though the Issaquah-Fall City Road/East Lake Sammamish Parkway is predicted after SPAR completion to still operate at a level of service F, it is expected that this LOS F will not be as deep as the existing condition. Moreover, after completion of the SPAR connection to I-90, the portion of Treemont traffic assigned to the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection is predicted to fall below 20% of project peak hour traffic, placing it beneath the threshold currently required by KCC 14.80.030 for determination of a significant adverse traffic impact.
109. Even with a corrected distribution, the portion of project traffic assigned to SR 202/Sahalee Way will be about 18% and therefore remains beneath the 20% threshold stated within the Intersection Standards. On the other hand, if based on a 1988 vesting date the old Road Adequacy Standards contained within KCC Chapter 21.49 are applied to the project, the minimum threshold for a direct traffic impact both along the SR 202 corridor west to Sahalee Way West and at Issaquah-Fall City Road/East Lake Sammamish Parkway is met under all relevant scenarios for the 194 lot proposal. Under the Road Adequacy Standards a direct traffic impact is a project-generated increase in vehicle traffic equal to or exceeding ten peak hour, peak direction trips. At SR 202/Sahalee Way during the AM-peak hour, Treemont will generate 17 peak direction trips under the EIS assignment and 19 trips under the revised 2003 assignment. Peak direction trips during the PM-peak hour would be 20 and 22.5, respectively.

For the Issaquah-Fall City Road/East Lake Sammamish Parkway intersection, the peak direction volumes under the EIS assignment are 42 trips in the AM and for the PM 48 trips. Under the corrected assignment these figures go to 47 and 57, respectively. After completion of the SPAR connection, the EIS assignment at this intersection is 18.5 peak direction trips during the AM hour and 21 trips during the PM peak.

110. Based on the unanimous testimony of area residents, another potential flaw in the EIS trip distribution may be the understatement of peak hour traffic flows through Fall City and along the Fall City-Preston Road to the Preston/I-90 interchange. The EIS distribution estimates 15% of Treemont traffic will head east on SR 202 toward Fall City, but it appears to assign all westbound project traffic directed toward the I-90 corridor to the South Plateau intersections. The testimony of area residents who commute to Seattle was that they abandoned the SR 202/SR 520 route about five years ago in favor of I-90 via the South Plateau, and now are forsaking the South Plateau approach in favor of about an additional ten-mile detour through Preston. If such is the case, the Intersection Standards 20% threshold may be met at the SR 202 intersection with SR 203 and the Preston-Fall City Road, as well as the I-90 interchange at Preston, requiring the analysis of impacts at those locations. It is reasonable to suppose, however, that completion of the SPAR connection should make the South Plateau route again more attractive and provide at least short term relief to Fall City.
111. It is evident that the projections within the Treemont EIS of acceptable future levels of service within the regional arterial system serving both this project and the Sammamish Plateau generally are heavily dependant upon the construction of certain key regional transportation projects. Thus, the Treemont applicant has agreed to pay King County \$1,433 per lot as a mitigation payment toward its SPAR CIPs and the Washington Department of Transportation a further \$1,152 per lot toward its Sunset Interchange and SR 202 lane widening projects. Mitigation payments to support Sunset Interchange construction are predicated on the theory that its development will provide relief to the existing I-90 ramps within Issaquah currently operating at LOS F and otherwise subject to impact mitigation for Treemont traffic. WSDOT's proposed project on SR 202 west of Sahalee Way is to widen the roadway to five lanes, and Treemont's payment of a pro rata share to that project is predicated upon mitigation of safety impacts.
112. Despite severe budgetary constraints on the state level, both the SR 202 project and the Sunset Interchange remain fully funded. Contributions from other agencies to the Sunset Interchange include nearly \$20,000,000 in federal money, \$5,000,000 in state gas tax funds, \$9,000,000 from Sound Transit and \$5,700,000 from the Applicant Port Blakely. As the developer of Issaquah Highlands, Port Blakely has a huge stake in the timely completion of the SPAR connections and Sunset Interchange. It is paying the major share of the cost of constructing the south SPAR as well as contributing significantly to the Sunset Interchange project.
113. In addition to the construction impacts discussed previously, making left turns onto SR 202 from either Southeast 8th Street or a new Southeast 19th Street will be problematic. An existing condition at Southeast 8th Street is the difficulty of making left turns during the morning rush hour onto SR 202. Since morning traffic oriented toward the I-90 corridor via Duthie Hill Road will make a left turn onto SR 202 from either Southeast 8th Street or Southeast 19th Street, in the absence of a signal such turning vehicles are required to cut across the heavy AM traffic flow

along SR 202 headed west into Redmond. Current Southeast 8th Street residents were adamant in their testimony that under existing conditions this left turn maneuver requires a long wait and a willingness to risk taking advantage of the smallest window of opportunity.

114. The Applicant's traffic engineer responded that once a new signal is constructed at SR 202 and Southeast 292nd Street, such signal will create left turning opportunities by platooning traffic along SR 202 approaching from the east. We question, however, whether this is a viable hypothesis. Westbound traffic on SR 202 that will be stopped by the new signal may simply be replaced by left turning traffic off Duthie Hill. Being a "T" intersection, this left turning traffic from Duthie Hill could constitute a constant flow during the green light phase for Southeast 292nd Street. Thus, the platooning effect of the signal may be minimal, only occurring briefly at the point of signal change.
115. Another shortcoming of the EIS traffic study was its failure to analyze Southeast 19th Street as a potential attraction to cut-through traffic. In addition to the 17 lots under development within Treemont North, there are at least another 70 residential lots along the 290th and 292nd Avenue Southeast spines that may find Southeast 19th Street to be a convenient access for traffic headed either east to Fall City or to the I-90 corridor via Duthie Hill Road. Southeast 19th Street will provide to such traffic a shorter and safer access to SR 202 eastbound than does Southeast 8th Street in its current condition. However, the remand hearing provided further clarification of these issues. First, WSDOT indicated that intersection spacing requirements would not preclude installing a signal at SR 202/Southeast 19th Street. And second, modeling by Transpo of the SR 202/Southeast 19th Street intersection at full neighborhood buildout and with all left-turning traffic diverted from Southeast 8th Street to Southeast 19th Street demonstrated that the intersection would operate at LOS C for the worst case scenario.
116. Although mentioned briefly, the Final EIS gives little attention to the potential construction impacts of Treemont with respect to the excavation and removal of 125,000 cubic yards for the construction of the Southeast 19th Street entrance road and SR 202 channelization. This excavation work will require more than 5,500 dump truck trips each way in and out of the site, which if concentrated within a single construction season while avoiding peak hours on SR 202, would average more than 20 trips an hour based on a five-day work week.
117. The Final EIS has this to say about construction traffic:

“Development of the project would result in construction traffic, including trucks and workers. The impacts of these trips would likely be lower than the traffic generated at full build-out of the project. Truck trips would occur throughout the day and would generally not have a significant impact on peak hour traffic operations at intersections or roadways near the site. Construction of the new access road intersection under the amended proposed action may require some closure of one or both lanes of SR 202 for a short duration. Possible closures would be anticipated during construction of the left and right turn lanes. Construction traffic may impact Southeast 8th Street between SR 202 and Treemont North.”

This summation seems to understate the impacts of project construction traffic.

118. Two remaining road facility issues involve staff recommendations for developer financed improvements along the Duthie Hill Road corridor. The first concerns the necessity and timing of the proposed signal to be installed at the intersection of SR 202 and 292nd Avenue Southeast. Two hundred ninety second (292nd) Avenue Southeast is an approximately 1,000-foot long extension of Duthie Hill Road where it turns north to intersect the state highway. Both staff and WSDOT contend that this intersection is now at or near level of service F and installation of the signal by Port Blakely should be required at an early stage of plat development. Fifty-five percent of Treemont traffic is projected to use Duthie Hill Road, which in the horizon year for 194 lot development will constitute more than 10% of the total traffic through the intersection. More critically, the level of service problems are attributable primarily to the left turn movements from Duthie Hill Road onto SR 202 westbound during PM-peak hour. During the PM-peak Treemont will contribute 69 out of 306 of these left turn movements, or 22.5% of the total.

Based on this high level of contribution to the critical turning movement, KCC 14.80.040.B provides authority to require the entire cost of the improvement to be placed on the Applicant. By the end of the hearing the Applicant, after much discussion, had agreed to funding the early construction of the SR 202/292nd Avenue Southeast signal.

119. Further west and uphill from the SR202/292nd Avenue Southeast intersection, Duthie Hill Road is a narrow, steep two-lane road with almost no shoulders. At issue is an approximately 1,800-foot stretch of Duthie Hill Road lying parallel to Canyon Creek where staff has requested a condition requiring the Applicant to construct a narrow paved shoulder. The plat of Aldarra lies west and upslope of this 1,800-foot section and will provide shoulder improvements as part of its frontage requirements. The Aldarra plat conditions also place upon that development a concurrent responsibility for the 1,800-foot section of roadway shoulder under review.
120. The Applicant has challenged the legality of imposing a shoulder improvement requirement for Duthie Hill Road as a condition of Treemont approval. The argument is that there is no evidence that Treemont residents will use this shoulder for walking or bicycling, and therefore the plat will not impact the problem. Staff's response is that Treemont will contribute a large amount of new traffic to this roadway and thus greatly exacerbate the risk to pedestrians and bikers generally.
121. A study performed for the Aldarra hearing in August, 1999, demonstrates that there currently is a small amount of recreational use of Duthie Hill Road in this vicinity. Weekday recreational use was almost nonexistent, while weekend use by pedestrians was nominal. Only weekend bicycle use analyzed during the August study seemed to present numbers worthy of recognition, and of those users the great majority were headed in the downhill direction, a fact which limits the potential usefulness of an uphill lane shoulder.
122. The staff's position is supported more by the prospect of future recreational use of Duthie Hill Road than by current levels of activity. The roadway has been recently redesignated a principal arterial, bicycle lane development is included in the County's nonmotorized transportation plan, burgeoning residential development within the Trossachs and Aldarra plats is on the horizon, and development of the County's new Section 36 Park further uphill is likely to become a regional

recreational attraction. Staff argues that under such circumstances a road improvement is warranted under authority of KCRS 1.03A based on an impact to the safety of a serving road to the Treemont plat.

123. As argued by the Applicant's attorney, proposed plat conditions are subject to constitutional requirements for nexus and for rough proportionality between the impact created by the new development and the mitigation required. Without belaboring the matter, it is our view that while the nexus requirement is met, the rough proportionality standard is not. There is no question that the traffic volumes contributed by Treemont to Duthie Hill Road will adversely affect pedestrian and bicycle safety, but we agree with the Applicant's contention that the rough proportionality requirement needs to take into account the Applicant's sole responsibility to construct the new traffic signal at SR 202/Duthie Hill Road. This will also contribute to safety for walkers and cyclists using Duthie Hill Road, and since Treemont is paying 100% of the signal cost, it will have contributed its fair share toward overall Duthie Hill Road mitigations in sufficient amount to exempt it from an additional burden to construct 1,800 feet of shoulder.

On remand:

124. *The County Council's June 5, 2000 remand order mandates that Treemont traffic impacts be analyzed under the Road Adequacy Standards in effect at the time of plat application instead of the later-adopted Intersection Standards and concurrency requirements that the Applicant volunteered to meet. From the standpoint of impact analysis, there are a number of important differences between the Road Adequacy Standards contained in KCC Chapter 21.49 and the Intersection Standards in current effect. To begin with, the Road Adequacy Standards define a "direct traffic impact" as being a contribution by a proposal of 10 peak hour/peak direction trips. By comparison, the Intersection Standards threshold is 30 total peak hour trips constituting at least 20% of the proposal's traffic for that peak hour. The Road Adequacy Standards impose, therefore, a lower threshold requiring the analysis of a greater number of intersections. A second difference is that the Road Adequacy Standards apply to roadways as well as intersections, while within the current regulatory scheme roadway capacity is reviewed separately within the concurrency determination. The Intersection Standards are also heavily oriented towards collecting contributions from developments through the Mitigation Payment System, while the Road Adequacy Standards rely more on a pro rata share mechanism for assessing contributions. Finally, the Intersection Standards consider the contribution of a developer to an existing LOS F condition to be legally sufficient if it results in improvements that leave such LOS F condition no worse than it was prior to development. The Road Adequacy Standards, on the other hand, only recognize as effective mitigation an improvement that will upgrade the intersection or roadway to a better than LOS F condition.*
32. *Under the Road Adequacy Standards at 194 lots Treemont will have a direct traffic impact at the heavily congested intersections located along SR 202 as it approaches Redmond and SR 520. By comparison, under the Intersection Standards threshold the 194 lot alternative will not have a significant adverse impact at any SR 202 intersection west of 244th Avenue NE. The Applicant's Road Adequacy Standards transportation analysis (exhibit 183) provides the following summary description of the expanded impacts analysis required by KCC Chapter 21.49:*

“In 2003, without the planned improvements, 13 intersections are forecast to operate LOS F either during the AM or PM peak hours. With the planned improvements, five of the intersections would continue to operate at LOS F.

“The LOS F locations that remain after completion of planned improvements include four intersections along SR 202 in Redmond. These include SR 202/SR 520 eastbound ramps, SR 202/SR 520 westbound ramps, SR 202/180th Avenue NE/E. Lake Sammamish Parkway, and SR 202/187th Avenue NE. These intersections are forecast to operate at LOS F due to the high volume of traffic associated with pipeline development projects. WSDOT has an improvement identified in the state highway systems plan to complete the partial interchange at SR 520/SR 202 and to construct HOV lanes. This improvement is in the 20-year financially constrained plan but is not yet funded. Redmond has an improvement identified to realign the SR 202/180th Avenue NE/E. Lake Sammamish Parkway intersection. The improvement is not yet defined, so it could not be specifically considered in the operations analyses.

“The intersection of SR 202/Ames Lake Road also shows a 2003 LOS F without the Treemont project. The LOS F is for the west-to-south left turns from Ames Lake Road to SR 202. This poor level of service primarily affects 50 left-turn vehicles during the PM peak hour. Installation of a signal would provide LOS B. A signal is not currently programmed or funded by WSDOT.

“In addition, the intersection of SR 202/244th Avenue NE would operate at LOS F during the AM peak hour unless a signal is installed. WSDOT does not have a signal identified for installation within the next several years. However, the Redmond Ridge UPD is conditioned to contribute to a signal or other WSDOT improvement, if WSDOT has a project planned at the time the UPD adds 100 peak hour trips to the intersection . . . Since the right turn lane has already been constructed by WSDOT, the UPD condition would require installation of a temporary signal or contribution to a WSDOT signal project. . . . With the signal, the intersection will operate LOS C or better for the 2003 without project condition.”

33. *DDES staff initially regarded the SR 202/Ames Lake Road intersection to be an unmitigated adverse environmental impact because of Treemont’s contribution to an LOS F condition and the absence of any agency upgrade proposed to ameliorate the condition. An improved level of service could be attained by either installing a signal at the intersection or providing a storage lane on SR 202 for southbound left-turning vehicles. WSDOT has not decided which option it prefers and may not do so in the near future. Nonetheless, the Applicant has offered to make a pro rata contribution based on a \$250,000 improvement cost and to waive time limits for the employment of that contribution.*

A similar situation obtains at the SR 202/244th Avenue NE intersection where a signal and right turn channelization will be required. Because of the anticipated Redmond Ridge contribution to this upgrade, WSDOT planning is further advanced and the improvement can be expected within the next few years. WSDOT has requested that the County pursuant to its interlocal require Treemont to contribute pro rata shares at both the 244th NE and Ames Lake Road intersections.

34. *The more problematic conditions along the SR 202 corridor lie west of Sahalee Way. All these intersections now operate a deep level of service F during both the morning and evening peak hours, as will the SR 520 ramps during the 2003 baseline year. Some major, albeit partial, improvements are scheduled to occur within this corridor in the next few years. SR 202 is programmed to be widened from two to five lanes between East Lake Sammamish Parkway and Sahalee Way. Construction on this project is scheduled to begin in 2004 and is fully funded. In addition, the County plans a complementary CIP for the Sahalee Way/SR 202 intersection that will include double left-turn lanes and a right-turn lane from Sahalee Way to SR 202. Construction on this project is also planned for the 2004 timeframe. Finally, within Redmond a new traffic signal and channelization is planned for the SR 202/187th Avenue NE intersection as a developer-funded improvement.*
35. *The effectiveness of these upgrades, significant though they may be, is constrained by the severe bottleneck conditions that will continue to exist along the SR 202 corridor from East Lake Sammamish Parkway west to SR 520. The SR 202/East Lake Sammamish Parkway NE intersection will continue to operate at a deep level service F in both the morning and evening peak hours even after the capacity improvements scheduled to the east. Also, SR 202/187th Avenue Northeast will continue to operate at level of service F after improvements are implemented. Moreover, the improvement to LOS C projected by the Applicant's study at SR 202/Sahalee Way NE in both the AM and PM peak hours must be regarded with some skepticism, particularly during the AM peak hour. Within the new traffic study only the I 90 ramps and the East Lake Sammamish Parkway/Issaquah Fall City Road intersections were analyzed using the Transyt 7F software which takes into account the effects of adjacent intersections on congestion conditions. This means that the LOS C projection for SR 202/Sahalee Way, and the even more optimistic LOS B predicted for SR 202/204th Place Northeast just to its west, are probably based on a theoretical increase in operational capacity and not real-time function within actual corridor conditions. While some level of service improvement at the SR 202 intersections at 204th Place Northeast and Sahalee Way are credible for the PM peak condition, in the AM peak one would expect these intersections to continue to operate at level of service F due to the major flow constriction lying immediately west at East Lake Sammamish Parkway.*
129. *The foregoing discussion of direct traffic impacts, as defined as by the Road Adequacy Standards, on SR 202 intersections from Sahalee Way west applies to Treemont within the specific context of the 194 lot proposal. Under that alternative, Treemont will contribute in the AM peak hour between 10 and 17 peak direction vehicle trips to the four intersections under discussion. In the PM peak hour the range of peak direction trips ranges between 14 and 20. At the SR 202/SR 520 ramps, the only location where the 10 peak hour/peak direction threshold is met for 194 lots is at the eastbound ramp in the PM peak hour. For the 83 and 47 lot scenarios, however, all of the SR 202 intersections from Sahalee Way west drop below the 10 peak hour/peak direction threshold.*

In this regard it should also be noted that there is a difference between the Road Adequacy Standards threshold and the mitigation threshold applied to state intersections under the County's interlocal with WSDOT. Under that agreement, mitigation is required based on a total

of ten peak hour trips to the affected intersection regardless of direction. If the interlocal standard is applied, the intersections along SR 202 from Sahalee Way west rise above the ten trip threshold for the 83 lot scenario. But for purposes of impact analysis under the Road Adequacy Standards, the peak hour/peak direction measure should be used.

130. *It also should be pointed out that, for comparative purposes, the Applicant's Road Adequacy Standards analysis retains the 2003 project horizon year used by the earlier EIS documents. The reason for this is, of course, to preserve a consistent framework for making meaningful comparisons. Nonetheless, as a practical matter, there is no possibility that Treemont lots will be contributing traffic to the system in 2003, and 2005 or 2006 is probably a more realistic horizon year projection. While the analytical usefulness of the 2003 horizon year is not being questioned here, in reality the project will come on line after most of the improvements under discussion will have been constructed, and a later horizon year tends to ameliorate some of the trip distribution discrepancies previously identified in findings 107 through 110. That is to say, by 2005 or 2006 some of the commercial and employment attractions assumed for Redmond Ridge may actually be in existence, and at the south end of the plateau the SPAR connection will be completed and Issaquah Highlands under construction.*
131. *South of Treemont on the SR 202 corridor two locations bear mentioning. The first is the intersection of SR 202/292nd Avenue SE discussed above in finding 118. 292nd Avenue SE becomes Duthie Hill Road and provides the primary access from the plat to the I 90 corridor. This intersection is currently unsignalized and will operate at LOS F in the PM peak hour without a signal improvement after addition of Treemont traffic. Treemont traffic meets Road Adequacy Standards minimum thresholds at this intersection for all three lot level scenarios, and the requirement for the project to provide this signal remains appropriate for all alternatives. Further south, the intersection of SR 202/Preston Fall City Road currently operates at level of service F in both the AM and PM peak hours and will be impacted by more than 10 peak hour/peak direction trips from Treemont under the 194 lot alternative. WSDOT plans to improve the level of service at this intersection by constructing a roundabout for which design funding has been committed. Construction is expected to occur in the summer of 2004, but at this time construction funds are not firmly committed.*
36. *Many of the funding uncertainties relating to major roadway improvements at the south end of the Sammamish Plateau that were a topic of discussion within the February 2, 2000 report and recommendation have been resolved. In particular, doubts that previously existed about the level and certainty of state funding for the Sunset Interchange have now been removed. This facility is fully funded and on schedule for completion in the summer of 2003. On this basis, the LOS F conditions that currently obtain at Issaquah Fall City Road/East Lake Sammamish Parkway and the nearby I 90 ramps are predicted to improve to an acceptable service level as traffic is diverted to the SPAR connection and the Sunset Interchange. How long this improved level of service condition will endure is problematic, however, in that projections for the year 2015 anticipate all three locations returning to level of service F with full build-out of the south Plateau.*
133. *In addition, two intermediate intersections lying between the Treemont plat and the SPAR cutoff are expected to experience level of service problems. The Issaquah Fall City Road/Klahanie Drive intersection is expected to go to LOS F in both the AM and PM peaks for the 2003 baseline*

condition. Also for the PM peak hour the Duthie Hill Road/Trossachs Boulevard SE intersection is projected to go LOS F in the 2003 baseline scenario. Both these intersections are impacted by more than 10 peak hour/peak direction vehicles from Treemont under all development scenarios. It is expected that the Trossachs Boulevard intersection will be upgraded by developer-funded improvements consisting of a turn lane and a traffic signal. This is projected to bring the level of service at least up to a C. The Issaquah Fall City Road/Klahanie Boulevard intersection is at the terminus of a County CIP to widen the existing two lane section to five lanes between Klahanie Boulevard and Southeast 48th Street. This project is on both the six year CIP and MPS fee lists. It is slated for design in 2003 and construction in 2005, with the possibility that funding priorities could push construction back a year or more.

HISTORIC PRESERVATION

134. As documented within the Final EIS, the Treemont properties, in particular the 15-acre Schroeder parcel, contain historical and possibly archeological resources that are subject to preservation policies. The Treemont site sits on a knoll overlooking the confluence of Patterson Creek and the Snoqualmie River. As such it may have been the location of summer encampments of the Snoqualmie Tribe, whose principal village lay some two and one-half miles away at Fall City. In addition, members of the Matt Family who operated a dairy farm on the proposed access parcel for nearly 50 years occasionally found prehistoric artifacts on the site. Accordingly, the staff has proposed a condition for implementing an archeological monitoring program and discovery plan.
135. A historical resource assessment performed for the Matt Farm buildings determined that the original house and the barn with its two attached wooden silos were historically significant and appeared to meet the criteria for listing on the National Register of Historic Places. They are therefore subject to the heritage sites policies contained in the 1985 Comprehensive Plan at Policies HS-101 through 104 as well as, under SEPA authority, Snoqualmie Community Plan Policies SQP 118 and 119. These policies support the preservation, restoration and adaptive reuse of historic sites in the Snoqualmie Valley Community Planning area.

Preservation of the Matt Farm buildings in their current locations will only be feasible under the 47-lot development option. All other options require the construction of the new access road and the resultant removal of the Matt Farms buildings. As mitigation, the Applicant has offered to assist finding nearby sites for the relocation of the three significant buildings, including the placement of advertisements and subsidizing the costs of demolition, removal and relocation. A condition outlining these procedures has been added to the recommendation.

VISUAL IMPACTS

136. The section of the Draft EIS dealing with aesthetics contains a view analysis describing the impacts of the Treemont subdivision on the neighborhood visual environment. The DEIS identifies the site's elevated location *vis-a-vis* surrounding properties as an unusual feature that increases the plat's potential for creating visual impacts:

“The subject property is a heavily wooded knoll, with trees averaging 50 to 60 feet in height. The site rises above the surrounding pasture and agricultural land, which is flat or gently rolling. It is part of a larger, north-south trending ridge, which is visible for several miles to the east and west. Because of the topography, the site is visible from vantage points such as Redmond-Fall City Road (SR 202) to the west and south, Duthie Hill Road/Southeast 27th Street to the west, and SR 203 to the east.

“Surrounding the project site are hilly, wooded areas, riparian areas along the streams, and flat pastures and agricultural lands. Lakes and streams dot the landscape....The Snoqualmie River is located about one-half mile east of the project site. The Mt. Baker-Snoqualmie National Forest is located east of the site and provides a backdrop of forested hillsides, including Mt. Si. These landscape features are visible to varying degrees from different locations within the project site. The heavily wooded environment of the site, however, limits views of surrounding areas.

“...At the project site, the steep topography, which forms a knoll, contrasts with the flatness of the immediately surrounding area. This contrast and topography has two primary effects on views of the site.

“The farther one gets from the project site, the more visible the knoll becomes....Because the site becomes more visible with distance, construction or clearing on the site would be more noticeable in surrounding areas than it would be if the site were flat.

“The increased visibility of the site with distance is offset, however, by the decreased visibility of most individual landscape elements....”

137. The DEIS contains a view analysis of the Treemont site from three locations identified on SR 202, SR 203 and Duthie Hill Road. The analysis appears to be a well-executed exercise, with the exception perhaps that it probably underestimates the amount of clearing that will occur on Treemont lots for view enhancement. While the plat developer itself may limit the amount of site clearing performed prior to final approval, it is a certainty that these very expensive lots will be marketed for their view potential and that ultimate lot purchasers will seek to maximize views on their lots. Based on the current design, it seems likely that the outer rim of lots comprising numbers 44 through 71 will undergo clearing to open up territorial views of the valley floor and the mountains beyond. These lots will be perched on the hillside about 300 feet above the valley floor. After clearing for view enhancement, these lots will be conspicuously visible from rural and agricultural properties to the south and east.

The DEIS identifies the visual effects of Treemont as a significant, unavoidable adverse impact, as follows:

“The overall character of the project site would be altered from an undeveloped, wooded environment to a single family residential development, and light sources within the project site would be added. This change would permanently impact view of the site for residents in the surrounding area.”

LAND USE

138. The September, 1999, Final EIS contains a new discussion of the land use impacts of the Treemont proposal that constitutes a substantial revision of the conclusions reached within the 1994 Draft EIS. Based on a review of the plans and policies in effect in 1994 when the DEIS was issued, the Final EIS concluded that the Treemont proposal would have a significant unavoidable adverse impact to the land use element of the environment, as follows:
- “The amended Proposed Action and Alternative 2 would have significant adverse impacts to the rural character of the area. If the proposed amended plat is approved in accordance with the recognized “G” zoning this impact would be unavoidable. There is no mitigation identified that can offset impacts to the designated Rural Area by this proposed low-density urban residential development. The amended proposal and Alternative 2 are both inconsistent with the rural character policy established for this area....The Final EIS for the SVCP also identified the vested “G” zoning as an impact to the rural area and the mitigation provided with the application of the Rural zoning.”
139. The Final EIS discussion notes that “this ‘rural character’ impact from development of a low-density urban plat in the rural residential zoned area is the key factor in determining a finding of significance under land use.” Further, it appears that much of the impact derives simply from the fact that the 1988 G zoning at one unit per acre permits development at a much higher density than that authorized beginning in 1989 with the adoption of the Snoqualmie Valley Community Plan and its zoning:
- “The density of a project directly relates to the loss of natural features through increased development intensity which results in more site grading and clearing, loss of wildlife habitat, increased traffic and drainage from more impervious areas. These visual factors play a significant role in defining the rural character and lifestyle of an area.”
140. While it is axiomatic that development at one dwelling unit per acre will have overall about five times more impact than development at one unit per five acres, any discussion of the significance of this fact must also take into account the state’s vesting policy. Certainly, for purposes of evaluating the legal basis for a possible denial of a project under SEPA authority, something more is required than a simple inventory of those impacts that flow normally and inevitably from the higher density that the vesting policy has authorized. For land use impacts attributable to a higher vested density to be capable of recognition on a decisional level, there needs to be evidence that these higher impacts, within the particular rural context under review, will have a greater adverse effect than that which can be attributed to the increased density alone. Otherwise, as argued by the Applicant’s attorney, SEPA review is at risk of merely becoming a subterfuge for a backdoor attack on the state’s vesting policy.
141. Since the passage of the Growth Management Act, the distinction between urban and rural lands has emerged as a stark decisional criterion. Within previous policy documents, such as the 1985 County Comprehensive Plan, these lines were less severely drawn. Thus, the 1985 Plan describes not only urban areas and rural areas, but also transitional areas and resource lands, with further refinements including rural activity centers, rural neighborhood centers and the like.

142. The passage of the GMA has also required a much more detailed search for the definitive elements of rural character. The current text for RCW 36.70A.030(14) defines “rural character” as referring to patterns of land use and development:
- “(a) In which open space, the natural landscape, and vegetation predominate over the built environment;
 - (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural area;
 - (c) That provide visual landscapes that are traditionally found in rural areas and communities;
 - (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
 - (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
 - (f) That generally do not require the extension of urban governmental services; and
 - (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.”
143. Taking into account the GMA definition above, our review of the record suggests that the Treemont proposal at 194 lots would have the following adverse impacts on the rural character of the area in excess of those simply attributable to an increase in density:
- A. Visual impacts due to the plat’s location on an elevated knoll, inevitable lot clearing to enhance view impacts of surrounding rural amenities, and from the requirement to cut a new access road through the steep slopes above SR 202 and Patterson Creek.
 - B. Infrastructure impacts and attendant sensitive areas impacts, if a new access road at Southeast 19th Street is required for urban density development.
 - C. Rural lifestyle impacts, to the extent that historic farm structures will be required to be removed for the development of a new access road.
 - D. Impacts to traditional rural lifestyles and the rural-based economy derived from the fact that Treemont will continue the conversion of rural properties into upscale suburban estates. Traditional rural lifestyles and rural-based economic activity flourish lower on the social and income scale, and their continued viability is threatened by encroaching gentrification.
 - E. Traffic impacts in the event that the Sunset Interchange facilities are delayed and commuter traffic from Treemont opts to avoid Sammamish Plateau congestion by

diverting through Fall City and Preston.

144. Of the impacts to rural character listed above, some are at least theoretically subject to partial mitigation. Visual impacts could be reduced by imposing covenants against clearing on the individual Treemont lots, but such covenants are difficult to enforce and more likely to result in after-the-fact punishment for unauthorized tree-cutting rather than actual prevention of clearing. With respect to the new access road, if construction phase TESC measures work as designed, catastrophic erosion and sedimentation impacts to Patterson Creek can be prevented, but substantial short-term sedimentation will necessarily occur, and the visual impact of the new hillside road will be unavoidable. Similarly, relocation of historic structures from the Schroeder parcel can provide for their physical preservation, but replication of an authentic rural setting may be less easily achieved.

Adverse impacts to traditional rural lifestyles and economic activities cannot be mitigated without altering the essential purpose of the Treemont development, which is to appeal to an upscale residential market, and so they must be regarded as unavoidable.

In like manner, while traffic impacts to Fall City and Preston perhaps can be better managed through mitigation strategies, the essential impact to rural character inheres in the traffic volumes themselves and can only be mitigated by eliminating Treemont lots.

SHORELINE PERMITS

145. Of the three shoreline permits originally requested by the Applicant, two were thought to be within the shoreline environment for Patterson Creek as recently documented by the State Department of Ecology. At the time of the initial adoption of the King County Master Program, Patterson Creek was not identified as having adequate flow rate to qualify for shoreline management jurisdiction above its confluence with Canyon Creek. Subsequent to shoreline application submittal, doubts were expressed as to whether the recent DOE determinations are applicable to Treemont without further enabling legislation. Accordingly, the Patterson Creek shoreline applications have been withdrawn and are no longer regarded as active.

In any event, the SR 202 roadway improvements are barely within 200 feet of Patterson Creek along their westernmost extension. Principal impacts within the potential shoreline jurisdiction area at this location would be alteration of slopes in excess of 40% and the partial filling of a class 2 wetland along the eastern edge of the SR 202 right-of-way.

146. The remaining shoreline permit application relates to the proposed drainage bypass tightline and outfall to the Snoqualmie River. In addition to the outfall, about 1,340 feet of pipe will cross within shoreline jurisdiction, passing along the outer edge of approximately 1,350 feet of wetland buffer. KCC 21A.24.320.H.4 allows drainage pipes to be placed within wetland buffers if no practicable alternative exists, wetland functions are maintained and mitigation is provided.

CONCLUSIONS:

1. The determination by DDES staff (then the Building and Land Services Division) that on December 30, 1988, Port Blakely Tree Farms submitted a complete application for subdivision of the 239 acres within the plat original boundaries is supported by the record. At that time the County had not yet adopted specific requirements defining what constitutes a complete application. The 1988 plat application was consistent with the County's submission requirements as they then existed, and the acknowledged need for further water and septic approvals did not raise exceptional issues. Although over the past years the plat application has been substantially reconfigured, these changes do not constitute a revised application requiring a new vesting date.
2. The shoreline permit application submitted by the Applicant is vested to its 1998 application date. Except as may be required by the exercise of SEPA substantive authority, the Schroeder parcel purchased by the Applicant in 1992 to provide a second access to the plat is vested to the 1988 application date with respect to proposed road development. For all other purposes it is subject to current regulations. The County's broad authority under SEPA to mitigate or deny the plat application based on its significant adverse environmental impacts is vested to August 9, 1994, the date of issuance of the draft environmental impact statement. The County's adopted substantive SEPA authority as of that date was described in Ordinance 9142 at Section 1 B. This authority includes all later amendments to the policies and regulations listed therein adopted prior to the 1994 DEIS issuance date. In many substantive areas the Applicant has agreed to comply with later adopted County standards, and the Applicant's stipulations to such effect are recited in exhibit 58. Finally, to the extent that the environmental documents generated pursuant to the remand order may qualify for treatment as a supplemental EIS, substantive SEPA authority to mitigate impacts identified in those documents is vested to November 15, 2001, the date the remand studies were issued.
3. The most complex of the issues remanded to the examiner by the County Council for further review involves the choice of site access routes. The alternatives are either construction of a proposed new SE 19th Street through the Schroeder parcel or upgrading the existing SE 8th Street connection to SR 202 so that the plat may be accessed to the east through the plat of Treemont North. As argued by DDES staff, upgrading the existing access at SE 8th Street involves less risk of serious adverse environmental impacts. If SE 8th Street is reconstructed using side slope retaining walls, the quantity of soils needed to be removed and exported off site would be less than 20% of that required for construction of a new road through the steep slopes above SR 202 at SE 19th Street. This greatly reduced quantity of soils removal translates into less risk exposure to the fisheries habitat downslope within Patterson Creek, fewer truck trips that will disrupt local traffic, and less fugitive loss of soils attendant to earthmoving and hauling.
4. Of particular importance to this analysis is the fact that SE 8th Street can be reconstructed within a single summer season. While the Applicant's erosion control mitigation procedures for SE 19th Street are well designed, the fact that the site will be under construction for two summer seasons, and exposed to the elements during the intervening winter season, is a major drawback. Despite implementation of elaborate erosion control and monitoring procedures, exposure of a half-excavated site to winter storms unavoidably increases the risk of adverse impacts to Patterson

Creek. Using the top down method, a temporary excavated pond halfway down the slope will need to be constantly pumped during winter storms. If the retaining berm contains a sand lens, the longer winter residence times for flows behind the berm increase the risk of soil saturation and berm failure. Finally, the need to haul soils from the site during the winter season creates an inevitable exposure of soils stockpiles to erosive storm events. Thus, by any reasonable yardstick, the degree of risk to Patterson Creek from the construction of SE 19th Street is necessarily greater than that attributable to SE 8th Street. Moreover, the proximity of Patterson Creek to SE 19th Street virtually assures that if a system failure were to occur, sediment-laden flows would reach the creek before intervening emergency measures could be implemented.

5. In terms of construction impacts to specific sensitive areas, SE 8th Street also seems preferable to the SE 19th Street option. SE 8th Street reconstruction requires the installation of more culverting to convey hillside streams beneath a widened SR 202, including a potential class 2 stream with salmonids. But because the existing culvert conveying the class 2 stream presents a barrier to fish passage, its replacement with a fish-passable structure will provide a permanent enhancement of habitat function that negates the temporary impacts of the in-stream construction work. And with regard to potential wetland impacts, SE 8th Street reconstruction is clearly the less impactful alternative. SE 19th Street construction not only impacts a greater total area of wetland but also entails the complete removal of the Schroeder farm pond, an adverse wetland impact that is prohibited by the 1990 Sensitive Areas Ordinance.
37. Both the SE 8th and the SE 19th Street locations are characterized by steep erosional slopes that overlook Patterson Creek and its valley. These slopes have already been graded for the construction of SE 8th Street, and its reconstruction will not require the further alteration of natural steep slopes. At the SE 19th Street location the steep slopes have also been graded for the construction of SR 202, and further alteration would be required to widen SR 202 and cut through a new roadway at SE 19th Street. Although no precise analysis has been performed, the topographical data suggests that the upper portions of the slopes to be altered by the construction of SE 19th Street may be naturally occurring and exceed 40% in grade. If so, their alteration may be prohibited by the 1990 Sensitive Areas Ordinance.
38. The simple fact of creating a new roadway cut through the steep slopes at SE 19th Street to connect with SR 202 will also have other identifiable adverse environmental impacts. As itemized at finding 143, the new roadway will have visual impacts because it will convert a rural landscape into an urban amenity, impacts to the rural character to the extent that construction of SE 19th Street will require removal of historic farm structures from the Schroeder parcel, and impacts to the water quality of Patterson Creek and its riparian wetlands from the creation of a new source of urban runoff flows.
39. The disadvantages attendant to reconstruction of SE 8th Street as the preferred option are more procedural than environmental. The Applicant has already done its environmental permitting work with federal agencies for the SE 19th Street site, but would need to start anew if SE 8th Street were the chosen option. More critically, by owning the Southeast 19th Street construction site in its entirety the Applicant would only need to obtain additional right-of-way from WSDOT for SR 202 widening in order to implement the SE 19th Street alternative. For SE 8th Street, on the other hand, the Applicant would not only need to obtain additional right-of-way from the

state along SR 202, but also purchase property and easement rights along SE 8th Street outside the existing County right-of-way. If voluntary purchase arrangements could not be negotiated, the Applicant would then need to rely upon the County to condemn the additional right-of-way. Finally, because SE 8th Street is an operational County roadway, its reconstruction would require its closure for approximately two summer months. This would require neighborhood residents to detour north to Tolt Hill Road, resulting in a period of inconvenience.

40. It is the examiner's recommendation that avoiding potentially serious environmental impacts to the Patterson Creek aquatic environment ought to be a more compelling consideration than the procedural obstacles and temporary inconvenience attendant to reconstruction of SE 8th Street. Accordingly, SE 8th Street ought to be regarded as the preferred access alternative. Since construction of SE 19th Street remains the Applicant's proposal, denial of this alternative and a requirement to reconstruct SE 8th Street in its stead can only be imposed as a condition of development if a regulatory basis exists to deny the SE 19th Street option. Our conclusion is that such regulatory authority exists, for the following reasons:
 - a. The elimination of the Schroeder pond wetland environment is prohibited by the 1990 King County Sensitive Areas Ordinance. In addition, the alteration of steep slopes on the Schroeder parcel above SR 202 is prohibited to the extent that any such slope is a natural feature at a 40% grade containing a vertical elevation change of over 20 feet. The 1990 Sensitive Areas Ordinance is applicable to Treemont as substantive authority for mitigation or denial of the proposal as a regulation formally designated by the County as the basis for the exercise of substantive authority and in effect when the Draft EIS was issued.
 - b. An increased risk to Patterson Creek, its fisheries habitat and salmonid species, including species listed as threatened under the Endangered Species Act, is a significant adverse environmental impact of the proposal to construct a new roadway at SE 19th Street. While the likelihood of a catastrophic erosion and sedimentation event associated with the construction of SE 19th Street may be small, due to the proximity of the construction site to the creek and the sensitivity of the resource, an event of this nature is almost certain to be very severe. WAC 197-11-794 provides that an "impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred."
 - c. The visual impacts to the rural character of the Snoqualmie Valley area resulting from new roadway development, as well as the inevitable water quality impacts to Patterson Creek resulting from new roadway runoff, when combined with the foregoing fisheries and sensitive areas impacts will result cumulatively in a significant adverse environmental impact. As stated at WAC 197-11-330 (3) (c) "several marginal impacts when considered together may result in a significant adverse impact."
10. A reexamination of the impacts attendant to the diversion of Treemont surface water runoff flows from the Patterson Creek subbasin to the Snoqualmie basin and tightlining such flows to the Snoqualmie River indicates that the Applicant's proposal remains the preferred option. All

Treemont surface water runoff volumes eventually end up in the Snoqualmie River, whether they arrive there by direct discharge or more circuitously via Patterson Creek. The unrefuted evidence of record demonstrates that by diverting Patterson Creek drainage to the Snoqualmie River and discharging it directly via a tightline, a further contribution to chronic Patterson Creek flooding conditions is avoided while discharge to the Snoqualmie River is achieved at a point in time prior to the river's peak flooding stage. The volumes discharged to the Snoqualmie River from Treemont under all scenarios constitute only a tiny percentage of the river's total volumes, and the resultant effect on river flood elevations is immeasurably small. This conclusion holds true for Treemont at all densities reviewed and for all lot configurations. Therefore, no basis exists in the record to modify or deny the Treemont proposal based on its flooding impacts to the Snoqualmie River.

11. The considerations that argue for limiting the lots at Treemont below the 194 number requested by the Applicant are based on the plat's traffic impacts, not drainage or flooding effects. At 194 lots Treemont will contribute 10 or more peak hour/peak direction trips to level of service F conditions on SR 202 at East Lake Sammamish Parkway and 187th Avenue NE. While some improvement to the LOS F condition at the 187th Avenue NE intersection may result from mitigations committed for construction, a mere improvement in an LOS F condition is not deemed adequate mitigation under the Road Adequacy Standards, as stated at KCC 21.49.030. In addition, the improvements anticipated from widening SR 202 to five lanes between East Lake Sammamish Parkway and Sahalee Way and the installation of additional turning lanes at Sahalee Way will provide sufficient capacity to relieve the LOS F condition only under some circumstances. The traffic flow restriction remaining at the SR 202/East Lake Sammamish Parkway intersection will prevent a better than LOS F condition from being achieved at locations further east during the AM peak hour. For both the 83 lot and 47 lot alternatives, on the other hand, Treemont traffic impacts fall below the 10 peak hour/peak direction threshold at all SR 202 intersections west of 244th Avenue NE. Therefore, at these lower lot configurations the plat would not have a direct traffic impact as defined by the Road Adequacy Standards at the chronic LOS F intersections on SR 202 from Sahalee Way west to SR 520.
12. For the 194 lot analysis, once a direct traffic impact of the plat resulting in an unmitigated calculated LOS F condition has been identified, a further inquiry is mandated as to whether the various exceptions stated within Chapter 21.49 apply to the project. The intersections of East Lake Sammamish Parkway/SR 202 and SR 202/187th Avenue Northeast both involve state facilities located within the City of Redmond. As provided at KCC 21.49.040 B, the fact that these intersections lie outside the County's unincorporated area does not exempt them from the application of the Road Adequacy Standards: "These standards shall apply to all public, county, city and state roads, other than freeways."
13. With respect to substandard facilities lying outside of the County's unincorporated area, a primary distinction is made within the Road Adequacy Standards between application of the standards and requirements for improvements.. The position taken by KCC 21.49.040 is that the chapter's standards apply to public roads under the jurisdictional control of other agencies, but improvements to such facilities shall be mandated by the County only if an interlocal agreement between the County and such jurisdiction is in effect. In other words, the County will not impose mitigation requirements on state or city roads without an interlocal agreement, but it retains the

jurisdictional authority to deny a proposal for failure to mitigate a direct traffic impact to a calculated LOS F condition wherever it occurs.

14. The County has a longstanding interlocal agreement with WSDOT for imposing conditions of mitigation to fund improvements to state roadway facilities, but no interlocal existed with Redmond prior to December, 1999. Assuming either a voluntary offer by the Applicant to contribute funding to mitigate impacts at intersections in Redmond or SEPA authority to require such contribution based on a November 15, 2001 vesting date for the Applicant's remand studies, we conclude that the Applicant could be legally mandated to contribute funds to road mitigation projects in Redmond having a level of service F condition and directly impacted by Treemont traffic.
15. The final step in this somewhat elaborate analysis is to negotiate the twists and turns of KCC 21.49.050 through .080, containing general and special conditions for project approval, pro rata share payments and exceptions. The basic approval standard is set forth at KCC 21.49.050, which states that "proposed development which will have a direct traffic impact on a roadway or intersection with a calculated LOS F shall not be approved unless" a LOS E condition will be attained either through funded improvements or reduction in project impacts, a construction contract for the needed improvements is anticipated within 12 months, or the roadway or intersection has already been improved to an ultimate roadway section and transit incentives or phasing of development is proposed.

It is clear that Treemont does not meet the requirements of KCC 21.49.050 with respect to the East Lake Sammamish Parkway/SR 202 intersection because no improvement is scheduled for construction that will achieve an LOS E condition. Redmond has identified a proposed project for reconstruction of the East Lake Sammamish Parkway intersection, but it has been neither designed nor funded. In like manner, similar requirements contained in KCC 21.49.060 are not met. The intersection improvements necessary to attain LOS E or better are not subject to a construction contract scheduled for award nor has complete funding of the necessary improvements been assured by any agency or entity.

16. This brings us finally to the pro rata share payments authorized under KCC 21.49.070. Such payments are authorized "as an alternative to meeting one of the criteria and 21.49.050" provided that, "King County concludes that the total improvement needed can be provided for or funded within five years of approval of the subject development or the applicant waives the operation of the time limit established in RCW 82.02.020." The reference to RCW 82.02.020 is focused on the requirement in state law that payments collected under mitigation agreements shall be expended within five years of collection. While the language of KCC 21.49.070 could be more clearly stated, its purpose is plainly to give the County some flexibility as to the collection of mitigation payments when there is an adequate basis in the record for concluding that the "total improvement needed" can be assured for construction within a reasonable time. It cannot be read as an open-ended invitation for developers to make contributions to non-existent projects under the pretext of waiving time limits regarding their ultimate disposition. In the instant case, while Redmond has identified the need to improve the SR 202/East Lake Sammamish Parkway intersection, it has neither designed a project nor committed to a timeframe for its construction. Therefore, the pro rata share mechanism cannot in this instance assure the eventual provision of

the total improvement needed, and its use will not result in effective mitigation of adverse impacts.

17. Finally, KCC 21.49.070 provides that consideration of a proposed pro rata share payment is to be treated as an exception under KCC 21.49.080. This latter section merely requires that “the record must reflect the basis for the exception”, which is also to be recited in the approving ordinance. This section adds little to the process except perhaps to underscore the necessity for a pro rata share scheme to be rationalized in terms of its ability to actually provide the needed improvement. This is consistent with the overall approach expressed at KCC 21.49.050 through .080: County administrators have a great deal of discretion in approving traffic mitigation conditions so long as the ultimate level of service improvement required can be provided.
18. The second aspect of the traffic-oriented analysis relates to the County’s “100 lot rule” limitation stated at KCRS 2.20. This is a public safety based requirement that prohibits any residential street from serving more than 100 lots or dwelling units unless secondary access is also provided. With reconstruction of SE 8th Street as the primary plat access supported on environmental grounds, the resulting neighborhood circulation will be characterized by a neighborhood collector route that begins at the intersection Southeast 8th Street and 292nd Avenue Northeast, then travels south through Treemont North into the Treemont plat. Since Treemont North has been approved for 17 lots, the plat of Treemont needs to be restricted to 83 lots in order to comply with KCRS 2.20.
19. The Applicant contends that KCRS 2.20 and its 100 lot limitation does not apply to Treemont because of the plat’s 1988 vesting date. This argument should be rejected. First, the Applicant has stipulated that the plat shall be subject to the 1993 King County Road Standards. Second, the King County Road Standards adopted in 1993 were in existence when the Draft EIS for Treemont was issued in 1994 and are identified in KCC 21.44.080 as a source of substantive SEPA authority.
20. The Applicant argues that, notwithstanding the specification within KCC Chapter 20.44 of the King County Road Standards as substantive SEPA authority, the specific reference is defective because it only authorizes use of the 1986 Road Standards, not the 1993 Standards. The Applicant is correct in pointing out that there is an ambiguity in the ordinance reference, but the better interpretation is that this ambiguity should be resolved in favor of making effective the County Council’s clear intent to implement the 1993 update. The listing at KCC 20.44.080 B (8) reads as follows: “The King County Road Standards, 1986 Update, as adopted in KCC Chapter 14.42”. There is a clear conflict within this provision between the 1986 update description and the adoptive reference to KCC Chapter 14.42. KCC 14.42.010 A states: “‘King County Road Standards’, 1993 update, as amended by the council December 20, 1993, . . . are hereby approved and adopted as the King County standards for road design and construction.”
21. It was clearly the intent of the County Council in adopting the 1993 Road Standards that such standards should supercede the 1986 version in all respects, including use as SEPA substantive authority. There is simply no logical argument to be made that the Council intended to adopt the 1993 standards for all purposes except SEPA. Therefore, in view of the conflict between the 1986 identification date and the adoptive reference to KCC Chapter 14.42, the latter should be

recognized as controlling. It is a well established principle of statutory instruction that interpretations that would produce an absurd result are to be avoided if alternative interpretations consistent with the legislative purpose are available. See, *Griffin v. Oceanic Contractors, Inc.*, 458 US 564 (1982). “The spirit and intent of the statute should prevail over the literal letter of the law, and there should be made that interpretation which best advances the perceived legislative purpose.” *Estate of Burmeister* 124 Wn. 2d, 282, at 287-88 (1994).

22. In addition to the traffic and circulation impacts identified above, approval of Treemont at a lower density than 192 lots is also supported by the impacts to rural character identified within finding 142. These include the visual impacts of urban density development as well as the impact to traditional rural lifestyles and the rural-based economy resulting from increased traffic congestion and the conversion of rural properties into upscale suburban estates. The plat is vested to the G (General) zone set forth at KCC 21.24 and to the 1985 King County Comprehensive Plan. Because the 1985 plan was still in effect in August, 1994, when the Treemont Draft EIS was issued, it also supplies a policy basis for the exercise for substantive authority under SEPA. Under the 1985 Comprehensive Plan Treemont was designated a Rural property.
23. The earlier land use regulation scheme implemented by the 1985 Comprehensive Plan and the Title 21 Zoning Ordinance reflect a different approach than one finds in the current GMA-based regulatory scheme. The latter is characterized by regulatory specificity and a bright line of demarcation between urban and rural lands. By contrast, the pre-GMA system was far more general and discretionary, encompassing a number of gradations between urban and rural polarities. Thus, the General zone as set forth in KCC Chapter 21.24 allows a large range of uses and dimensional criteria, with designated lot sizes ranging from 35,000 square feet to ten acres depending on circumstances. Rather than representing fixed development targets based on residential population goals, development under the pre-GMA system emphasized the flexibility to accommodate unique circumstances, and the criteria promulgated therein represent minimum standards that could be exceeded if the specific situation required it.
24. Central to the pre-GMA regulatory scheme for King County was the acknowledgement that particular development requirements might be modified to provide consistency with Comprehensive Plan policies. The principle that land use decisions should implement Comprehensive Plan policies is stated within the 1985 plan at policies PC-101 and 102 as well as PI-205. A similar provision is to be found at KCC 20.24.070 B governing hearing examiner procedures.
25. Turning to the substantive policies of the Comprehensive Plan, it is clear that a strong linkage is made between the need to protect rural lifestyles and rural character and the provision of low residential densities. Policy PC-114 states that “King County should preserve long-term Rural Areas with low residential densities and appropriate public improvements and services to provide for a rural lifestyle and protect rural character.” In like manner, Policy PC-115 provides that the “primary land use in Rural Areas beyond the planned expansion areas of Rural Activities Centers should be very low density residential development.” Subsection B of Policy PI-103 identifies as a basic Comprehensive Plan concept to be implemented through planning and review actions that densities in the Rural Area should be “low enough to protect rural character and avoid the need

for expensive facilities and services, such as public sewers, surface water management, extensive arterial networks, and urban level fire protection.” Finally, Policy R-105 b provides that in Rural Areas outside of Rural Activity Centers residential development should be “at low densities compatible with rural character and uses, small scale farming and forestry, and rural service levels.” These policies are provided greater particularity in Policies R-216 and R-217, which indicate that in the Rural Area a minimum density of one unit per 2.5 acres should prevail.

26. Although neighborhood opponents to the Treemont project have argued in favor of site development one unit per five acres, the impacts of the proposal can be adequately mitigated at the 83 lot level, which generally corresponds to one lot per 2.5 acres. The Applicant’s proposal for 194 lot development should be denied because of the following significant adverse environmental impacts:
- a. Development at 194 lots will result in an unmitigated direct traffic impact at the intersections of SR 202/East Lake Sammamish Parkway and SR 202/187th Avenue NE, as such impact is defined within the County’s Road Adequacy Standards. These intersections both currently operate at a deep level of service F, and the improvements committed for construction within the SR 202 corridor between East Lake Sammamish Park and Sahalee Way, while substantial, will not relieve the level service F condition at either intersection.
 - b. The 194 lot proposal would result in a road circulation system that endangers neighborhood safety in violation of the County’s 100 lot rule stated in KCRS 2.20.
 - c. The 194 lot proposal will contribute to the destruction of rural character and lifestyle by imposing unmitigated urban visual, traffic congestion and infrastructure impacts and contributing to further gentrification of the rural community, in violation of the policies of the 1985 King County Comprehensive Plan.

In addition, the 194 lot proposal’s inability to comply with KCRS 2.20 and KCC Chapter 21.49 constitutes a failure to make appropriate provisions for streets and roads as required by RCW 58.17.110.

27. The recommendation is to approve the Treemont plat at 83 lots, in lieu of 194 lots as requested by the Applicant and 47 lots as recommended by DDES staff. The conditions attached to this report have been modified for implementation of the 83 lot alternative, with site access to be provided through the reconstruction of SE 8th Street. The conditions applicable to SE 8th Street require the installation of side slope retaining walls to reduce soils excavation and removal, plus the top down construction technique to minimize erosion and sedimentation risks. Use of the SE 8th Street access route will require the Applicant to obtain new right-of-way, and the Council should be prepared to support that endeavor with condemnation proceedings if voluntary arrangements cannot be negotiated. The Schroeder parcel may continue to be used as the site of surface water detention and treatment facilities as proposed by the Applicant, but with elimination of the SE 19th Street access neither water quality treatment by sand filter may be necessitated nor should the existing historic buildings require removal. The conditions retain the Applicant’s proposal to divert a portion of site runoff from the Patterson Creek sub-basin to the

Snoqualmie River drainage and to tightline Snoqualmie basin flows directly to the river. Finally, the record provides no basis to deny to the Applicant the opportunity to employ the County's phased engineering review procedures, and the condition to such effect has been restored to the recommendation.

28. With respect to mitigation for Treemont's traffic impacts, the Council remand motion requires application to the project of the 1988 Road Adequacy Standards and additional mitigation as supported by SEPA. Accordingly, contributions based on the County's Mitigation Payment System are not required of Treemont because the MPS ordinance was not enacted until after the plat application date. The recommended conditions require payments to be made to mitigate identified direct traffic impacts based on pro rata share contributions.
29. The remand process has disclosed significant new information indicating or on the Treemont proposal's probable significant adverse environmental impacts in the areas of traffic and, with respect to the comparative analysis of the SE 19th Street and SE 8th Street access routes, erosion control and sensitive areas. Accordingly, the requirements for a Supplemental EIS as stated at WAC 197-11-405 (4) are met. As provided in the remand status conference order issued for this proceeding, the Applicant's remand studies (exhibits 163, 171, 173 and 183) shall serve as a Draft Supplemental EIS, and the findings and conclusions of this report and recommendation shall serve as a Final Supplemental EIS for the Treemont proposal.
30. In summary, substantive authority under SEPA for conditioning or denying elements of the Treemont proposal is derived from the following King County plans, policies and regulations in effect in August, 1994, when the Draft EIS was issued:
 - a. The 1985 King County Comprehensive Plan
 - b. The 1990 Sensitive Areas Ordinance
 - c. The 1988 Road Adequacy Standards
 - d. The 1993 King County Road Standards

For impacts resulting from the reconstruction of Southeast 8th Street identified in the remand studies issued November 15, 2001 and this report and recommendation, additional substantive authority is derived from the 1998 King County Surface Water Design Manual.

31. If approved subject to the conditions imposed below, the proposed subdivision at 83 lots makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
32. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION TO THE KING COUNTY COUNCIL:

The proposed subdivision of Treemont, as revised and received October 11, 1999, should be DENIED preliminary approval at 194 lots. In lieu of 194 lots, Treemont should be GRANTED preliminary approval for 83 lots, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the requirements of the G zone as set forth in KCC Title 21 in the manner shown for remand study alternative number 2 at a maximum development of 83 lots (see attachment 2 to DDES remand staff report, exhibit 147). All lots shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction, provided that the Applicant may, pursuant to current County practice and code requirements, obtain an early start clearing and grading permit, following the approval of a TESC plan and preliminary review of relevant drainage and roadway plans.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration or dispersion systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Drainage plans shall be designed in accordance with the approved variance application No. L98V0041. Off-site drainage easements for stormwater conveyance shall be submitted to King County prior to engineering plan approval. All runoff control facilities shall be located in a separate tract and dedicated to King County.
 - e. For the western portion of the site discharging to Patterson Creek, storm water facilities shall be designed using the KCRTS level 3 flow control standard. Drainage plans shall include design criteria for roof drain infiltration/dispersion and flow control BMP's as required by Chapter 5 in the drainage manual. Water quality facilities shall also be provided using designs required by the resource stream protection menu. All runoff control facilities shall be located in a separate tract and dedicated to King County.
 - f. As described in the drainage manual for Special Requirement No. 2, the engineering plans and final plat shall identify the 100-year flood plain for streams and wetlands located within the project.
 - g. Geotechnical reports shall be submitted with the final engineering plans to address requirements for the design and construction of stormwater ponds.
 - h. Flows from sub-basins P-7 and P-8 shall not be diverted to the Treemont North R/D system.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. The primary loop road within Treemont shall be improved as a rural subaccess street. The remaining cul-de-sac streets shall be improved to rural minor access standards.
 - b. Off-site road improvements are required to re-construct portions of SE 8th Street approaching the intersection with SR 202. The preliminary road designs prepared by the applicant show reconstruction of the landing on SE 8th Street to meet King County standards and reconstruction of the vertical alignment extending east from SR-202 for approximately 800 feet. To address the design standards for vertical alignment, the applicant shall apply for a King County road variance regarding the road gradient and stopping sight distance. Road improvements within the jurisdiction of WSDOT shall meet applicable design standards and any required permits from WSDOT shall be obtained prior to construction.

9. The applicant is required to improve SR202 at the intersection with SE 8th Street to provide turn lanes and channelization for both northbound and southbound traffic. Design plans for the road improvements shall be approved by the Washington State Department of Transportation. A copy of the approved plans shall be submitted to King County prior to approval of the King County site improvement plans. Prior to recording any lots within Treemont, the required improvements to SR202 and SE 8th Street shall be built and finalized to the satisfaction of DDES.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. A permit from the Washington State Department of Fish and Wildlife may be required for the construction of roads and drainage facilities located within or near a designated water of the State. The applicant shall contact the applicable state agency and submit any required permits to King County prior to engineering plan approval. The applicant shall also contact the Washington State Department of Ecology and the U.S. Army Corps of Engineers to determine if any permits are required for road construction and discharge of storm water.
12. Prior to any road construction or drainage improvements along State Route 202, the applicant shall obtain approval from the Washington State Dept. of Transportation . Before commencement of any clearing or excavation for construction on SR 202 or SE 8th Street, a construction traffic management program shall be submitted to and approved by King County and WSDOT. This traffic management program shall include, but not be limited to, the following:
 - a. Road construction coordination: The program shall minimize the total traffic impacts by routing and staging construction traffic to and from the site, scheduling road openings and closures, and providing coordination with other major construction projects in the area.
 - b. Road closures: Road closure detour plans shall be reviewed and approved by the King County Traffic Engineer. All traffic control signs, flagging, and other devices shall conform to the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD) for streets and highways and standard specifications for road, bridge, and municipal construction. When determined necessary by DDES and KCDOT, the applicant shall provide written notification of road closures to area residents.
 - c. Other traffic control plans including partial lane closures: Traffic control plans shall be subject to the review provisions stated above for road closures, provided that all traffic lanes on SR 202 must remain open during AM and PM-peak hours.
 - d. Load management: The program shall include procedures for minimizing loss of excavated soils during loading and hauling, for cleaning trucks prior to departure from the excavation site, and for road sweeping and site maintenance.

13. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. Determine the top, toe, and sides of 40% slopes by field survey. Provide a 50-foot buffer from these slopes. The buffer may be reduced to 10 feet with the submittal of a satisfactory soils report.
16. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in K.C.C. 21A.24. Permanent survey marking, and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
17. The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in K.C.C. 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in K.C.C. 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.

18. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the open space/sensitive area(s) tracts.
19. The geotechnical engineer shall evaluate the specific designs for all utility crossings of steep slopes and landslide hazard areas and a report shall be submitted with the engineering plans. The report shall demonstrate that the installation of these utilities will not subject the area to risk of landsliding or erosion. Depending on the amount of disturbance proposed, a revegetation and slope stabilization plan may be required at the discretion of DDES during engineering plan review. Both a landscape architect experienced in native slope restoration plans and the geotechnical engineer should prepare the plan. The plan shall include recommendations for soil amendment and the use of native plantings to replicate both understory and canopy plantings. A five-year maintenance, monitoring and restoration bond shall be established to ensure the long term functioning of these mitigation measures.
20. At the time of engineering plan submittal the applicant shall provide a grading plan that conforms to the geotechnical engineering report for the reconstruction of SE 8th Street/SR 202. The grading plan shall incorporate soldier pile retaining walls as shown in Appendix A, exhibit 1-9, of exhibit 163, which shall have a minimum factor of safety of 1.5 for the static condition and 1.1 for the pseudostatic conditions.
21. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
22. Condition 7 through 14 of the shoreline permit approved concurrently herewith shall also be conditions of final plat approval.

The following conditions have been established under SEPA authority as requirements necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

23. **Wetlands and Streams**

Unless otherwise stated, the wetland and stream protection, alteration and mitigation requirements found in K.C.C. 21A.24 shall be applied to this plat. These requirements are further clarified and expanded upon below.

- a. As identified in Final EIS Table 2.3.1, Class 1 wetlands shall have a minimum 100-foot buffer of undisturbed native vegetation, Class 2 wetlands shall have a minimum 50-foot and Class 3 wetlands shall have a minimum 25-foot buffer of undisturbed native vegetation.

- b. Buffer averaging is proposed around some of the wetlands on this project. It may be approved during engineering plan review if it meets the following criteria: it will provide additional protection to the wetlands or enhance their functions, the total area contained in the buffer around each wetland does not decrease, and it meets the standards found in administrative rule “Presumption of Salmonids, Sensitive Areas and Buffer Modifications, and Mitigation Requirements”.
- c. Class 3 streams on the site shall have a minimum 25-foot buffer of undisturbed native vegetation, measured from the ordinary high water mark.
- d. The water supply pipeline proposed to be installed under Patterson Creek along Duthie Hill Road shall use “jack and bore” construction techniques, or similar techniques. The boring and receiving pits, if required, shall be placed a minimum of 25 feet from the ordinary high water mark of the Creek. The water pipeline shall be bored to a minimum of four feet below the maximum depth of scour for the base flood as determined by a civil engineer licensed in the State of Washington.
- e. With respect to the widening of SR 202 at Southeast 8th, alterations to the Class 2 stream crossing under SR202 or the Class 2 stream buffer in the vicinity of SE 8th Street shall require restoration of fish passage to reaches upstream of SR202.
- f. Wetlands, streams and their buffers shall be placed in sensitive area tracts. A minimum 15-foot building setback line shall be required from the edge of all sensitive area buffers.
- g. Any approved alterations of streams and/or their buffers shall insure that there will be no net loss of stream functions on or near the construction site nor any negative impact on stream functions above or below the site due to said alterations.
- h. Any approved alterations to wetlands shall be mitigated by replacement or enhancement onsite, at a 2:1 area ratio for Class 1 or 2 wetlands and a 1:1 area ratio for Class 3 wetlands. Replacement or enhancement wetlands must provide equal or greater biologic functions, including habitat, and equivalent hydrologic functions.
- i. Any approved alterations to wetlands or streams or their buffers shall require that a mitigation plan be submitted for review along with the engineering plans. The mitigation plan must include proposed final grades, hydrologic calculations showing how the mitigation feature will function, and a detailed planting plan showing plant species, sizes and locations. The plan shall list goals, and objectives, construction and maintenance measures. The mitigation plan shall be prepared in accordance with King County DDES’ “Sensitive Area Mitigation Guidelines (1998 or as revised in the future)”.
- j. Approval of a mitigation plan will include the requirement for posting financial guarantee(s) to insure installation and success of the plan. Monitoring for five years from the date of installation shall be required, prior to a final inspection of the mitigation plan. The financial guarantee(s) will be released when the performance standards have been met. If the performance standards have not been met at the conclusion of the

monitoring period, a contingency plan will be required to remedy the situation, and the monitoring period may be extended.

Erosion Hazards

24.
 - a. As approved by DDES, a qualified, full-time erosion and sediment control inspector shall be present throughout all clearing and grading phases for construction of SE 8th Street. The inspector shall be responsible for ensuring that water leaving the site is at or below acceptable turbidity levels as determined by WSDOE/NPDES permit. The inspector will approve all potential sediment-producing actions, monitor all erosion control actions and equipment, be independent of the construction contractor, and have authority to stop any action not deemed suitably protective of water quality. The final erosion control plans shall contain the name and contact number for the special inspector and outline the responsibilities for implementation and reporting to King County.
 - b. In areas designated as erosion hazard in accordance with K.C.C. 21A.24, the unconstrained seasonal construction window shall be April 1 to September 1, except that up to 15,000 square feet may be cleared on any lot subject to wet weather sedimentation and erosion control requirements of the King County Surface Water Design Manual and performance standards for water quality discharge.
 - c. Prior to the onset of winter, any exposed subgrade should be seeded, covered with plastic sheeting or otherwise protected. Seeds should be planted prior to September 1 in order to have the grass established by late October. In addition, exposed construction slopes should be trackwalked (up and down) in order to roughen the ground surface and reduce runoff velocities.
23. Patterson Creek, its adjacent riparian wetlands and the hillside streams and wetlands that discharge to Patterson Creek are sensitive areas requiring application of conservative best management practices to protect water quality. The following BMPs for reconstruction of Southeast 8th Street and SR 202 widening are required to maximum erosion control, minimize the extent and duration of exposed construction areas, and to protect sensitive areas:
 - a. Soldier pile retaining walls as shown in Appendix A, exhibit 1-19 of exhibit 163 shall be required for reconstruction of Southeast 8th Street.
 - b. Prior to commencement of construction of Southeast 8th Street, the Applicant shall prepare and obtain approval from DDES for a final temporary erosion and sedimentation control plan for the construction of Southeast 8th Street. Such final plan shall include the following:
 - (1) Construction of Southeast 8th shall utilize the “top down” construction method used on the South SPAR Road project.
 - (2) Provision for pumping of stormwater from construction areas to a stormwater pond and water quality treatment facility prior to discharge from the site. The

Applicant shall maintain on-site redundant pumps so that a backup pump is available at all times in the event that the primary pump fails for any reason.

- (3) If any surface water flows generated by the construction site (including overflows resulting from TESC system failure) are to be discharged to Patterson Creek, such flows shall be routed to culverts beneath SR 202 located south of the SE 8th Street intersection in order to avoid release to the class 2 stream channel lying north of the intersection.
- (3) A water quality monitoring program shall be implemented, including a water quality sampling plan to be conducted by an independent consultant selected by the applicant and approved by King County (Water Quality Monitor), who shall perform inspections and monitoring during large storm events (i.e., >0.5 inches in 24 hours) and inspect adjacent water bodies to ensure that water quality is not being impacted.
- (4) An on-site pre-construction meeting shall occur between the contractors doing site work, the Applicant, the WQM, and DDES inspectors.
- (5) The site contractor, the Applicant and the DDES inspector will be notified immediately if impacts to water quality are observed by the WQM or if any part of the TESC system needs repair or is not functioning properly.
- (6) An on-site Construction Control Monitor, selected by the Applicant and approved by King County, shall inspect the site on a daily basis for proper implementation of mitigation measures and Best Management Practices set forth in the Final TESC Plan, as well as any additional requirements imposed by the NPDES permit for the site. Such inspection shall address both sediment and erosion control plans and procedures for controlling pollutants other than sediment. The daily inspection shall include, but is not limited to, ensuring the following:
 - (a) Containment of construction activities within defined work area boundaries.
 - (b) Adequate covering of exposed soils during rainfall events.
 - (c) Proper placement and effective functioning of sediment control facilities and soil stabilization practices.
 - (d) Adequate prevention of leaks and spills of petroleum products and chemicals.
 - (e) Proper maintenance of stockpiles, if any.

26. Archaeology/Historic Preservation

- a. These conditions are designed to insure that archaeological materials, if encountered, are evaluated and treated in the appropriate manner in accordance with State and County regulations.
 - (1) a professional archaeologist prepare a discovery plan to implement immediately should resources be found during grading and excavation on site;
 - (2) excavation and site preparation crews be trained by a professional archaeologist to recognize potential archaeological materials; and
 - (3) the County grading/erosion monitor be trained and instructed to inspect carefully for potential archaeological materials during grading and other site preparation/disturbance on site.
- b. The discovery plan should go into effect immediately if potential archaeological materials are encountered and should, at a minimum, include the following:
 - (1) cessation of work where potential materials are discovered until they can be examined by a professional archaeologist and further appropriate actions undertaken;
 - (2) immediate notification of an on-call professional archaeologist to evaluate the discovered materials;
 - (3) immediate notification and consultation with the State Office of Archaeology and Historic Preservation, the King County Office of Cultural Resources and relevant tribes (including the Snoqualmie, Tulalip and Muckleshoot tribes) if discovered materials are prehistoric and a site is present;
 - (4) provisions for further delineating any site present and obtaining an excavation permit and proceeding with data recovery if such action is deemed appropriate by the archaeologist and consulted parties; and
 - (5) provisions for removal and reinterment of human remains, analysis and curation of other materials, stewardship and disposition, and reporting to the consulted agencies and tribes.
- c. If DDES approves such relocation as required for storm water management facility development, as outlined in the Final EIS at Section 2.7.3.1 the Applicant shall assist in relocating the three historically significant buildings on the Schroeder parcel to nearby sites by offering them for sale at a nominal sum, underwriting assembly and relocation costs, and advertising their availability in at least two Eastside newspapers serving the Fall City area over a four-week publication period.

Roads and Traffic

27. The Applicant shall make pro rata payments to mitigate direct traffic impacts on roadways and intersections in unincorporated King County:
- a. The Applicant shall pay a pro rata share towards the north and south SPAR Road projects in the amount of \$146,184.
 - b. At the time of recording of the first final plat in Treemont the Applicant shall prepare and submit a revised traffic analysis of the level of service at Issaquah-Fall City Road and Klahanie Boulevard. If such report determines that the projected LOS has fallen to F and the CIP project has been delayed beyond the point in time when the number of occupied homes at Treemont will exceed 39, the Applicant shall make a fair share contribution to KC. in an amount equal to 1.44% of the cost of the CIP project at Issaquah-Fall City Road/Klahanie Boulevard.
28. The Applicant shall make the following upgrades and pro rata share contributions to WSDOT facilities:
- c. The Applicant shall enter into a legal agreement with WSDOT to construct a signal at the intersection of SR 202/292nd Avenue Southeast. The signal plans shall be approved by WSDOT prior to final plat recording and the signal bonded for assurance that it will be operational within one year of final plat recording.

Alternatively, if the developer chooses to phase the plat, the Applicant may record up to 42 lots without signal installation. Prior to final recording of a phase that creates a cumulative lot count of greater than 42 lots, the signal shall be installed at SR 202/292nd Avenue Southeast. Such signal plans shall be approved by WSDOT prior to final plat recording and bonded for assurance that the signal will be operational within one year of final plat recording.
 - d. Prior to final plat recording of the last phase of the project, the Applicant shall prepare and submit to WSDOT a signal warrant analysis for the intersection of SR 202 and Southeast 8th Street. If, following WSDOT review of such analysis, WSDOT determines that a signal will be warranted at such intersection by the time of occupancy of the last phase of the project, the Applicant shall contribute to WSDOT a fair share payment for installation of the signal based on the ratio of the total peak hour/peak direction trips generated by the project that will travel on Southeast 8th Street to or from the SR 202 intersection to the total of all peak hour/peak direction trips using Southeast 8th Street at SR 202.
 - e. The Applicant shall, prior to recording of the first final plat, make a fair share contribution to WSDOT in an amount equal to 1.17% of the cost of the pending WSDOT signalization project at SR 202 at Northeast 244th Street.

- f. For the intersection at SR 202/Ames Lake Road, the Applicant shall, prior to recording of the first plat, comply with whichever of the following mitigation measures is applicable:
 - (1) If WSDOT has designed a signalization project at SR 202 and Ames Lake Road, the Applicant shall make a fair share contribution to WSDOT in an amount equal to 1.3% of the cost of such signalization project.
 - (2) If WSDOT has designed a refuge lane project at SR 202 and Ames Lake Road to improve the LOS F condition for left turns from Ames Lake Road to SR 202, the Applicant shall make a fair share contribution to WSDOT in an amount equal to 1.3% of the cost of such refuge lane project.
 - (3) If WSDOT has not designed a signalization or a refuge lane project at the time of recording of the last final plat for Treemont, no pro rata contribution shall be required.
- a. The Applicant shall pay to WSDOT a fair share calculated fee for the SR 202 widening project and for improvements to the Sunset/I 90 and Front Street/I 90 interchanges in the amount of \$95,116.
- b. For the SR 202 improvements at Ames Lake Road and 244th Avenue Northeast described above, the Applicant shall not be required to contribute to the cost of additional improvements that WSDOT may include in such projects which are not related to the costs of the signal or refuge lane mitigation required to address the LOS F condition impacted by Treemont project traffic.

SHORELINE PERMIT DECISION:

Shoreline substantial development permit no. L98SH006 is APPROVED, subject to the following conditions:

- 1. Nothing in this permit shall be construed as excusing the Applicant from compliance with any federal, state or local statutes, ordinances or regulations applicable to this project other than the permit requirements of the Shoreline Management Act of 1971.
- 2. The permit may be rescinded pursuant to Section 14(7) of the Shoreline Management Act of 1971 in the event the permittee fails to comply with any conditions thereof.
- 3. Construction pursuant to this permit may not begin or be authorized until twenty-one (21) days from the date of filing the final order of King County with the Department of Ecology or the Attorney General; or until all review proceedings initiated within twenty-one (21) days from the date of such filing have been terminated.

4. Time Requirements of the Permit (WAC 173-27-090). The following requirements shall apply to all permits:
 - a. Based on the phasing schedule for the project, the amount of time required to construct some components of the project, the need to coordinate construction of the shoreline improvements with the subdivision improvements, and the need for consistency in the time limitations for final plat work and the shoreline permits, good cause exists to allow an alternative to the standard time requirements set forth in WAC 197-27-090 for the shoreline construction contemplated for this project, as follows:

Construction within the shoreline for the shoreline permit shall be started, constructed and become operational within five years of the effective date of said shoreline permit.
 - b. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. Provided that, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
 - c. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the Applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.
 - c. When permit approval is based on conditions, such conditions shall be satisfied prior to commencement of a nonstructural activity. Provided that, an alternative compliance limit may be specified in the permit.
 - d. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired under section (2) of this section: Provided that, this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time of the original permit.
 - e. Local government shall notify the Department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.
5. Construction shall occur in conformance to the approved plans and information relative to the Preliminary Plat of Treemont (S128903) and King County Surface Water Manual (KCSWM) Variance No. L98VA0041. Pertinent conditions of the plat approval and drainage variance

approval shall be considered to be conditions of this Shoreline Permit. If the Treemont preliminary plat application is denied by the King County Council, this shoreline permit shall become null and void.

6. Any subsequent changes to the approved shoreline plans may require the Applicant to obtain a new shoreline permit for a revision to this shoreline permit pursuant to WAC 173-27-100.
7. During construction, the Applicant must use materials and construction methods that prevent toxic materials, petrochemicals, and other pollutants from entering the Snoqualmie River or Patterson Creek directly or indirectly.
8. With regard to the outfall to the Snoqualmie River, river bank protection shall be provided to minimize negative impacts on the riparian system and on fish habitat. Following outfall construction, the area shall be replanted with native plants and shall be generally constant with exhibit no. 41 and the approved HPA. Stabilizing efforts shall use bioengineering techniques such as willow brush mattresses, bundles, and/or live stakes to protect against erosion on slopes and to provide protection against shallow mass movement. Through the final drainage engineering review process, an enhancement plan for this outfall shall be provided using the aforementioned bioengineering techniques and minimizing, to the extent feasible, the use of structural materials and encroachment upon floodplain storage.
9. Prior to work within Shoreline Management jurisdiction, the Applicant shall obtain a Hydraulic Project Approval (HPA) form from the Washington State Department of Fish and Wildlife ("WSDFW"). Any conditions of the HPA shall be considered conditions of this Shoreline Permit.
10. Surplus material resulting from the construction of that portion of the proposed project within Shoreline Management jurisdiction shall be removed to a location authorized to accept such material. Such surplus material shall not be allowed to enter the waters of the Snoqualmie River or Patterson Creek.
11. Silt fences, straw bales or other such devices shall be employed around the work area to prevent escapement of sediment or contaminate materials.
12. Prior to work, authorization to construct said project shall be secured from the Washington State Department of Natural Resources ("WSDNR").
13. Within 30 days after completion of the work, photographs of the project site shall be taken from different directions and provided to DDES-Shorelines.
14. All development activities within Shoreline jurisdiction shall comply with applicable provisions of KCC 21A.24 as they existed at the time of shoreline permit application.

DATED this 9th day of May, 2002.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 9th day of May, 2002, to the following parties and interested persons:

John Adams
Aldarra Farms
Donald Armstrong
Carol A. Beck
Ben Giddings, P.E.
Edward Besch
Paul and Lory Bishop
Bruce Blython
Michael Boudreaux
Jean Bouffard
Terry Branthwaite
Laurie Bride
Paul Bride
Gail S. Brooks
Julie Brown
Todd Brown
Thomas Card
Leonard Carlson
Christopher J. Center
Carol Chittum
Christine Clapp
Kevin Cleary
Craig Critchley/Nola Drazdoff
Craig Critchley
Robert and Karen Eddy
David A. Edwards
Glenn L. Eklund
Joseph Elfelt
Jeff and Mary Everest
Barbara Foster
James and Pam Fratello
Gerald Ketchum
Mary Jane Godejohn
Eric Greene
Erick Haakenson
Carl G. Hadley
Joel Haggard
William Harper
Gus Henderson
Dick and Linda Holub
Rebecca Inman
Di Irons
James Karr, Ph.D.
John Lenth
Robert D. Johns
John Karlen

Joelle Keizer
Fred W. Keller
Janet Keller
Andrew Kindig
Teresa Kluver
Curtis Koger
Mary Korsmo
John & Janice Kyte
Dean & Carrie Lee
Teresa LeMay
John Lenth
Donald Lewton
David & Deborah Luchtel
Ian D. Macrae
Joseph Matt
Rosemary McCauley
Jim & Lisa McKay
Aaron McMichael
Michael & Monica Hanley
Allen & Kristin Minner
Debbie Moery
Joe Monahan
Mark Morgan
Mr. & Mrs. Elton Zwick
Miriam Murdoch
Cindy Parks
Trese Rand-Schaller
Jon Rickabaugh
Dave & Corinne Ridgley
Barry Rochford
Ellen Roe
Don and Sharon Rogers
Robert D. Rose
Jenna G. Scholz
Robert Seana
Seattle-King County Health Dept
Phil Seneker
Harriette Shake
Arthur Strom
John B. Sutherland
Ralph Svrjcek
Kathryn Taylor
Patrick Tharp
Patrick N. Tharp
Larry W. Toedtli
Tom Uren, P.E.

Peter Dye
Carolyn Edmonds
Steve Foley
Larry Gossett
Jane Hague
Rich Hudson
David Irons
Louise Kulzer
Kathy Lambert
Kristen Langley
Rob McKenna
Aileen McManus
Mark Mitchell
Anne Noris
Carl Osaki
Julia Patterson
Dwight Pelz
Larry Phillips
Kent Pullen
Carol Rogers
Michael Sinsky
Cynthia Sullivan
Charlie Sundberg
Steven C. Townsend
Pete vonReichbauer
Benj Wadsworth
Kevin Wright

NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before May 23, 2002***. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before May 30, 2002***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At

that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

SHORELINES

The decision of the Shoreline Hearing Examiner may be appealed to the State Shoreline Hearings Board. Information on appeal procedures may be obtained from Washington State Department of Ecology, Olympia Office -- telephone (206) 459-6327. Requests for review by the Hearings Board must be received by the State Department of Ecology and State Attorney General's Office within thirty (30) days of receipt by the Department of Ecology of the permit or letter of denial.

MINUTES OF NOVEMBER 3, 4, AND 19, AND DECEMBER 3, 1999, PUBLIC HEARING ON DDES FILE NO. S128903 – TREEMONT.

Stafford L. Smith was the Hearing Examiner in this matter. Participating at the hearing were Rich Hudson, Peter Dye, Mark Mitchell, Steve Bottheim, Aileen McManus, Laura Casey, Delite Morris, and Tom Beavers, representing the County; Bob Johns, John Adams, Carol Beck, Tom Uren, Bob Seana, Erick Haakenson, Joe Monahan, Cindy Parks, Curtis Koger, Andrew Kindig, Carl Hadley, Gail S. Brooks, Larry W. Toedtli, Leonard Carlson, Arthur Strom, David Edwards, John Sutherland, William Harper, Robert Angrisano, Paul Bishop, Zak Treisman and Don Armstrong.

The following exhibits were offered and entered into the hearing record **November 2, 1999**:

Exhibit No. 1	Department of Development and Environmental Services File No. S128903
Exhibit No. 2	Department of Development and Environmental Services preliminary report for the November 2, 1999, public hearing.
Exhibit No. 3	Application dated December 30, 1988
Exhibit No. 4	Environmental documents:
.a	Draft Environmental Impact Statement (DEIS) dated August 1994
.b	DEIS Addendum dated March, 1999
.c	Final EIS and technical addenda and studies
Exhibit No. 5	Affidavit of Posting indicating October 4, 1999, as date of posting and October 6, 1999, as the date the affidavit was received by the Department of Development and Environmental Services
Exhibit No. 6	Preliminary plans submitted October 11, 1999
Exhibit No. 7	Department of Development and Environmental Services Shorelines File Nos. L98SH006, 007, and 008

Exhibit No. 8	Shoreline permit applications for file Nos. L98SD006, 007, and 007
Exhibit No. 9	Land use maps (portions of Section 5 & 6, Range 24N, Township 7E)
Exhibit No. 10	Resume of Carol A. Beck, JD, APA
Exhibit No. 11	Resume of Thomas M. Uren, Hugh G. Goldsmith & Assoc
Exhibit No. 12	Fig. 2.5 –Diagram of existing street system
Exhibit No. 13	Regional Drainage Map
Exhibit No. 14	Overall Site Plan (colored)
Exhibit No. 15	Snoqualmie River Flood Plan Limits (map source: FEMA panel 705 effective date – May 16, 1995; FEMA panel 710 effective date – May 20, 1996)
Exhibit No. 16	Post Development Drainage Basin Map
Exhibit No. 17	Regulatory Detention Volumes per Various Regulatory Standards
Exhibit No. 18	Pre and Post Development Volumes and Rates to Patterson Creek
Exhibit No. 19	Overall Map of Off-site Storm Sewer
Exhibit No. 20	Written testimony of Cindy Parks
Exhibit No. 21	Water Supply Line Jack and Bore Exhibit
Exhibit No. 22	Hydraulic Project Approval (application accepted October 7, 1999)
Exhibit No. 23	Preliminary Entrance Road Design
Exhibit No. 24	Resume of Curtis J. Koger, CPG
Exhibit No. 25	Water Well Location Map (1995 source)
Exhibit No. 26	Figure 12: Cross section C-C ¹
Exhibit No. 27	Figure 2: Subsurface Exploration Map
Exhibit No. 28	Figure 6: Geology Map
Exhibit No. 29	Figure 13: Landslide Hazards Map
Exhibit No. 30	Existing Entrance Road Cross Section A-A ¹
Exhibit No. 31	Entrance Road Proposed Excavation
Exhibit No. 32	Resume of Andrew C. Kindig, PhD, Biologist/Water Quality
Exhibit No. 33	Schematic Water Quality Design for Treatment of Residential Runoff to Patterson Creek
Exhibit No. 34	Regulatory Water Quality Pond Volumes
Exhibit No. 35	Andrew C. Kindig Hearing Testimony Outline

The following exhibits were offered and entered into the hearing record **November 3, 1999**:

Exhibit No. 36	KCC 21.24 – General Classification
Exhibit No. 37	Letter dated October 12, 1999, from Associated Earth Sciences to Port Blakely Communities, Attn. John Adams and Carol Beck regarding Supplementary Geotechnical Analysis and Recommendations for Planned Southeast 19th Street Cut Slopes
Exhibit No. 38	Subsurface Exploration and Geotechnical Engineering Report for Proposed Western Entrance Roadway, Storm Water Tightline, and Water Main Alignments dated August 3, 1998, prepared by Associated Earth Sciences
Exhibit No. 39	Sammamish Plateau Water and Sewer District Developer Extension Agreement
Exhibit No. 40	Resume of Carl G. Hadley, Fisheries Biologist
Exhibit No. 41	Stormwater Outfall to Snoqualmie River – Bank Restoration Plan
Exhibit No. 42	Monday, November 1, 1999, <i>The Seattle Times</i> article entitled “Development muddies the waters”.

Exhibit No. 43	Letter dated September 16, 1999, from Curtis J. Koger, Geologist/Hydrogeologist, Associated Earth Sciences, to Port Blakely Communities, Attn. John Adams, re Class III Landslide Hazard Areas Amended Treemont Residential Subdivision
Exhibit No. 44	Resume of Gail S. Brooks, Sr. Scientist/Planner
Exhibit No. 45	Treemont Stormwater Bypass Wetlands Study dated February 1998 submitted by Berger/Abam Engineering, Inc.
Exhibit No. 46	Amended Treemont Residential Preliminary Plat, Conceptual Wetland and Stream Mitigation Plan dated October 1998
Exhibit No. 47	Conceptual TESC Plan
Exhibit No. 48	Treemont Conceptual Phasing Plan
Exhibit No. 49	Resume of G. Aaron McMichael, PE
Exhibit No. 50	Resume of Larry W. Toedtle, PA of the Transpo Group
Exhibit No. 51	Certificate of Concurrence for the Treemont Development dated October 1, 1996, executed by William G. Hoffman, KCDOT, Transportation Planning Division
Exhibit No. 52	Figure 2.5-4 Illustration of Traffic Distribution
Exhibit No. 53	Excerpt from August 1997 Design Manual (Intersections at Grade, pp 910-4 & 5 and p 910-16)
Exhibit No. 54	Map showing adjacent ownership within 5 miles of project
Exhibit No. 55	<u>Cougar Mountain Associates, Appellant, v. King County, Respondent</u> , Supreme Court of Washington File No. N53841-7
Exhibit No. 56	Excerpts from various sources discussing "Rural character"
Exhibit No. 57	Memorandum dated July 8, 1999, from Carol A. Beck (Port Blakely Communities, Inc.) to Mark Carey, Rich Hudson, Greg Borba and Pete Dye (DDES/LUSD) re Treemont SEPA Plans and Policy (Rural Character) Issue

The following exhibits were offered and entered into the hearing record **November 4, 1999**:

Exhibit No. 58	Summary of Code Provisions Applicable to Preliminary Plat and Shoreline Substantial Development Permits of Treemont submitted by Applicant
Exhibit No. 59	Ordinance No. 4365
Exhibit No. 60	King County Building and Land Development Division Administrative Guidelines/Building Setbacks from Hazardous Slopes on Plats and Short Plats/Effective Date: February 1, 1987
Exhibit No. 61	Applicant's Corrections and Changes to Staff Report
Exhibit No. 62	Preliminary Phasing Plan
Exhibit No. 63	Treemont Subdivision DEIS Addendum Transportation Technical Appendix (April 1, 1998)
Exhibit No. 64	Treemont Subdivision DEIS Addendum Transportation Technical Appendix (January 21, 1999)
Exhibit No. 65	Draft Water Quality and Fisheries Analysis Addendum to DEIS; Amended Treemont Residential Subdivision (March 30, 1998)
Exhibit No. 66	Amended Treemont Residential Preliminary Plat; Preliminary Hydrologic Analysis and Level One Downstream Analysis (March 1998)
Exhibit No. 67	Plat map of preliminary plat of Aldarra (S90P0082)
Exhibit No. 68	Memorandum dated November 2, 1999, from Charlie Sundberg (Preservation Planner) to Rich Hudson (SEPA Coordinator)

Exhibit No. 69	Public comment letter dated October 30, 1999, from Fred W. Keller
Exhibit No. 70	Hearing Examiner's Report and Recommendation on preliminary plat of Aldarra (S90P0082) dated October 14, 1999
Exhibit No. 71	Letter dated November 1, 1999, from Robin Rolstad (WSDOT) to Rich Hudson re WSDOT mitigation requirements
Exhibit No. 72	Memorandum dated November 2, 1999, from Aileen McManus (KCDOT) to Rich Hudson (DDES/LUSD) re SPAR Road Pro-Rata
Exhibit No. 73.a	"Bull Trout in the Snohomish River System" prepared by Washington Department of Fish and Wildlife July 1999
.b	Bull Trout Distribution map (data as of January 7, 1999)
.c	Bull Trout Distribution in Snohomish, King and Pierce Counties map (as of January 7, 1999)
Exhibit No. 74	Revised preliminary plat map for Treemont North – Phase III
Exhibit No. 75	Patterson Creek Flow Data

The following exhibits were offered and entered into the hearing record **November 19, 1999**:

Exhibit No. 76	Comment letter from Debora Moery to the Hearing Examiner faxed November 18, 1999
Exhibit No. 77	Letter dated November 14, 1999, from Mr. and Mrs. B. Leonard Carlson to the Hearing Examiner expressing their concerns
Exhibit No. 78	Letter dated (and transmitted via fax) November 18, 1999, from Ian D. Macrae to the Hearing Examiner
Exhibit No. 79	Letter dated November 8, 1999, from Louis J. Haff of City of Issaquah to Fred Brower (Transportation Improvement Board) regarding the future of the Sunset Interchange Project on I-90 with the passage of I-695
Exhibit No. 80	Duthie Hill/292 nd Ave SE warrant study (WSDOT)
Exhibit No. 81	Article submitted by Christopher W. May (Applied Physics Laboratory, College of Ocean and Fishery Sciences, U of W) entitled "The Cumulative Effects of Urbanization on Small Streams in the Puget Sound Lowland Ecoregion"
Exhibit No. 82	Vicinity map including Duthie Hill Road
Exhibit No. 83	Affidavit (including bicycle) dated August 24, 1999, by Jim MacIsaac (initially prepared for Aldarra hearing)
Exhibit No. 84	Five (A-E) photographs submitted by Arthur Strom
Exhibit No. 85	Comment letter dated November 12, 1999, from Sharon Meehan to DDES
Exhibit No. 86	Five (A-E) photographs of flooding submitted by Cindy Parks
Exhibit No. 87	Fax cover sheet (including written comment) dated (and transmitted) November 18, 1999, from Rich Hudson to Debora Moery
Exhibit No. 88	Three (3) photographs of flooding (Patterson Creek) submitted by Mr. Seana
Exhibit No. 89	Patterson Creek Flow Data (February 1990-March 1999)
Exhibit No. 90	Collection (3) of writings regarding impacts of rural and urban uses on Patterson Creek
Exhibit No. 91.a	Excerpt from November 8, 1999, Woodinville Weekly/Northlake News, etc. regarding I-695 fallout
.b	November 19, 1999, Eastside Journal, page A4

The following exhibits were offered and entered into the hearing record **December 3, 1999:**

Exhibit No. 92	Document dated December 1, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 93	Letter dated November 29, 1999, from Robert P. Seana to Hearing Examiner
Exhibit No. 94	Letter with attachments (transmitted via fax) dated November 29, 1999, from Cindy Parks to Stafford L. Smith, Bob Johns and Rich Hudson
Exhibit No. 95	Copy of e-mail from Teresa Kluver to Stafford Smith, transmitted December 1, 1999
Exhibit No. 96	Comment letter from Lisa McKay received by Hearing Examiner December 1, 1999
Exhibit No. 97	Letter dated November 29, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 98	Copy of e-mail from Donald Armstrong to Stafford Smith, transmitted December 1, 1999
Exhibit No. 99	Copy of e-mail from Chris Center to Stafford Smith, transmitted December 2, 1999
Exhibit No. 100	Copy of e-mail from Donald Armstrong to Stafford Smith, transmitted December 2, 1999
Exhibit No. 101	Copy of e-mail from Jeff Scholl to Stafford Smith, transmitted December 2, 1999
Exhibit No. 102	Letter dated December 2, 1999, from Janet Keller to the Hearing Examiner
Exhibit No. 103	Letter dated December 2, 1999, from Joe Monahan to Stafford Smith
Exhibit No. 104	Comment letter from Ilze Tomsevics to Hearing Examiner received (by DDES) December 2, 1999
Exhibit No. 105	Letter (with attached memo) dated November 29, 1999, from Ronald Paananen, KC Roads Services Division to Tom Uren
Exhibit No. 106	Hydraulic Project Approval (Date of Issue: November 17, 1999)
Exhibit No. 107	Letter dated December 1, 1999, from Dave and Corinne Ridgley to Stafford Smith
Exhibit No. 108	Comment letter dated October 30, 1999, from Fred W. Keller
Exhibit No. 109	Hearing testimony materials submitted by Erick Haakenson
Exhibit No. 110	Graph: Paired Peak Flows on Snoqualmie River
Exhibit No. 111	Graph: Verification Plot of Regression Results with Corresponding USGS Measurements
Exhibit No. 112	Graph: Regression Residuals at Carnation
Exhibit No. 113	King Soil Conservation District Floodplain Management 1994 Study
Exhibit No. 114	Copy of e-mail from Randall Parsons to Pete Dye (cc Steve Bottheim)
Exhibit No. 115	Copy of e-mail from Greg Kipp to Mark Carey (cc Rich Hudson) re Treemont plat permit vesting vs SEPA vesting
Exhibit No. 116	King County Building and Land Development Division Administrative Guidelines Building Setbacks from Hazardous Slopes on Plats and Short Plats: Effective Date: February 1, 1987
Exhibit No. 117	Copy of e-mail from Tom Bean to Randall Parsons, Pete Dye, Steve Foley and Ken Krank (cc Mark Bergam) re draft Treemont Subdivision KCSWM Variance
Exhibit No. 118	Memorandum dated April 16, 1999, from Peter Dye to Rich Hudson re Treemont Addendum EIS, March 1999

Exhibit No. 119	KC Development Condition Query Results, Post-Conversion Condition: SO-230
Exhibit No. 120	Letter dated December 2, 1999, from Robert P. Seana to Stafford Smith
Exhibit No. 121	Revised Staff Report Conditions (dated December 3, 1999)
Exhibit No. 122	Applicant's Corrections and Changes to Staff Report
Exhibit No. 123	Applicant's suggested changes to Duthie Hill Road conditions
Exhibit No. 124	Seattle-King County Department of Public Health Environmental Health Services water and sewer disposal application (executed August 9, 1988)
Exhibit No. 125	King County Certificate of Water Availability (executed September 6, 1988)
Exhibit No. 126	Plat map approved by Health Department November 29, 1998, showing lot lines for purposes of septic systems
Exhibit No. 127	Letter dated November 29, 1999, from David R. Jensen (DR Strong) to Carol Beck (Port Blakely Communities)
Exhibit No. 128	Map of plat and vicinity with photographs illustrating visual character of area
Exhibit No. 129	Map showing Treemont Tree Preservation Areas
Exhibit No. 130	Preliminary Treemont entrance road profile
Exhibit No. 131	Proposed SE 8 th Street profile
Exhibit No. 132	Calculations on runoff rates at Snoqualmie River and Carnation
Exhibit No. 133	Comment letter from John and Janice Cannon-Kyte addressed to Stafford Smith
Exhibit No. 134	Letter dated December 2, 1999, from Doniga Murdoch to Stafford Smith
Exhibit No. 135	Letter dated December 2, 1999, from Miriam Murdoch to Stafford Smith
Exhibit No. 136	King County Code Chapter 21.24 G General Classification (9-88)
Exhibit No. 137	KCC 19.28.030 Identification, description and delineation of existing and proposed conditions shown on plat.

Exhibits received at the Examiner's Office prior to close of the hearing record and admitted administratively:

Exhibit No. 138	Comment letter dated November 29, 1999, from Jim and Lisa McKay to Hearing Examiner
Exhibit No. 139	Letter dated November 29, 1999, from Jeff Everest to the Hearing Examiner, received December 9, 1999
Exhibit No. 140	Letter dated December 3, 1999, from Jim and Lisa McKay to the Hearing Examiner
Exhibit No. 141	Letter dated December 1, 1999, from Dave and Corinne Ridgley to Hearing Examiner
Exhibit No. 142	Hard copy of e-mail from Tayler Hawes to Hearing Examiner (Stafford L. Smith) sent December 3, 1999
Exhibit No. 143	Hard copy of e-mail from Donald Armstrong to Hearing Examiner set December 3, 1999 (transmission includes two pictures showing flooding problems of Patterson Creek)
Exhibit No. 144	Letter dated December 3, 1999, from Jim and Lisa McKay to Hearing Examiner (including numerous colored photographs).

The following exhibits were admitted to the hearing record for **Shoreline File Nos. L98SH006, 007, and 008** :

- Exhibit No. SH-1 Department of Development and Environmental Services Shorelines files identified with plat file DDES File No. S128903
 - .a File No. L98SH006
 - .b File No. L98SH007
 - .c File No. L98SH008
- Exhibit No. SH-2 Shorelines staff report dated November 2, 1999 (Attachment 2 to DDES staff report for File No. S128903)
- Exhibit No. SH-3 Dates of shoreline application permits:
 - .a File No. L98SH006 - April 17, 1998
 - .b File No. L98SH007 - April 17, 1998
 - .c File No. L98SH008 - April 17, 1999
- Exhibit No. SH-4 Environmental documents:
 - .a Draft Environmental Impact Statement (DEIS) dated August 1994
 - .b DEIS Addendum dated March, 1999
 - .c Final EIS and technical addenda and studies
- Exhibit No. SH-5 Affidavits of Posting indicating May 23, 1998, and October 3, 1999, as dates of posting May 26, 1998, and October 6, 1999, respectively, as the dates the affidavits were received by Department of Development and Environmental Services
- Exhibit No. SH-6 Preliminary plans submitted April 17, 1998
- Exhibit No. SH-7 Department of Development and Environmental Services File No. S12803 for the preliminary plat of Treemont
- Exhibit No. SH-8 Date of publication for Notice of Application for DDES Shorelines files L98SH006, 007 and 008:
 - .a Valley Record - May 28, 1998, as date of publication
 - .b Seattle Times – May 26, 1998, as date of publication
- Exhibit No. SH-9 Affidavit of Publication of Notice of Public Hearing dated October 7, 1999 (Seattle Times and Valley Record)
- Exhibit No. SH-10 Assessor maps
 - .a File No. L98SH006: Sections 5, 32, and 33, Range 24, Township 7
 - .b File No. L98SH007: Sections 5, 6, 7, and 8, Range 24, Township 7
 - .c File No. L98SH008: Sections 4, 5 and 6, Range 24, Township 7

**MINUTES OF THE MARCH 7, 8, 18, 22, 2002 REMAND PUBLIC HEARING ON
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO: S128903**

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Rich Hudson, Pete Dye, Kristen Langley, Steve Bottheim and Laura Casey. Participating in the hearing and representing the Applicant were Bob Johns, Attorney at Law, and John Adams, Port Blakely Communities. Participating in the hearing and representing the Appellant was Robert Seana. Others participating in this hearing were Leonard Carlson, Ralph Svrjcek, John Sutherland, Miriam Murdoch, John Karlen, Janet Keller, Laurie Bride, Craig Critchley, Joelle Keizer, Ben Giddings, John Lenth, Tom Uren, P.E., Carl Hadley, Gail Brooks, Bruce Blython, Andrew Kindig, Jon Rickabaugh, Eric Haakenson, Jenna Scholz, Dr. James Karr, Richard Whitcomb, Cindy Parks,

The following exhibits were offered and entered into the record:

- Exhibit No. 145 Public comment letters (entered by Examiner)
- a. Fax letter from Trese Rand-Schaller to Stafford Smith, dated March 6, 2002
 - b. E-mail from Todd Brown to Stafford Smith, dated March 6, 2002
 - c. Letter from Robert D. Rose to Stafford Smith, dated March 4, 2002
 - d. Letter from Paul D. Bishop, Ph.D., to Stafford Smith, dated January 13, 2002
 - e. Letter from Joe E. Monahan to Stafford Smith, dated January 14, 2002
 - f. Letter from Miriam Murdoch to Stafford Smith, dated March 6, 2002
 - g. Letter from Richard A. Whitcomb to Stafford Smith, dated March 6, 2002
 - h. E-mail from Joelle Keizer to Richard Hudson, dated March 6, 2002
 - i. Letter from Janet Keller to Stafford Smith, dated March 5, 2002
 - j. Letter from Mary Korsmo to Whom it may concern, dated received March 7, 2002
 - k. E-mail from Vladimir Ushakoff to Stafford Smith, dated March 18, 2002
 - l. E-mail from E. G. Kroener to Stafford Smith, dated March 7, 2002
 - m. E-mail from Julie Brown to Stafford Smith, dated March 7, 2002
 - n. E-mail from Donald Rogers to Stafford Smith, dated March 6, 2002
 - o. E-mail from Linda Holub to Stafford Smith, dated March 6, 2002
 - p. E-mail from John Rouches to Stafford Smith, dated March 6, 2002
 - q. E-mail from Inga Rouches to Stafford Smith, dated March 6, 2002
 - r. Letter from Joelle Keizer to Stafford Smith, dated March 8, 2002
 - s. Fax from Craig Critchley to Stafford Smith, dated March 6, 2002
 - t. Letter from Elton and Genevieve Zwick to Stafford Smith, not dated
 - u. Letter from Joelle Keizer to Stafford Smith, dated March 17, 2002
 - v. E-mail from Janice Cannon-Kyte to Stafford Smith, dated March 18, 2002 11:43 p.m.
 - w. E-mail from Laurel Davis to Stafford Smith, dated March 18, 2002
 - x. E-mail from Janice Cannon-Kyte to Stafford Smith, dated March 18, 2002 11:47 p.m.
 - y. E-mail from Carrie and Dean Lee to Stafford Smith, dated March 19, 2002

- z. Memo from Michael Hanley to Stafford Smith, dated March 16, 2002
- aa. E-mail from Ilze Tomsevics, Michael Hanley and Monika Hanley, dated March 21, 2002
- bb. Letter from Paul Bishop to Stafford Smith, dated March 21, 2002
- Exhibit No. 146 Department of Development and Environmental Services Remand File No. S128903
- Exhibit No. 147 Department of Development and Environmental Services Preliminary report, dated March 7, 2002, mailed February 21, 2002
- Exhibit No. 148 Plat Maps
 - a. 194-lot proposal
 - b. 83-lot alternative
 - c. 47-lot alternative
- Exhibit No. 149 DDES summary
- Exhibit No. 150 Revised condition no. 22
- Exhibit No. 151 Appearance of fairness issue
- Exhibit No. 152 Philip Fordyce, P.E., WSDOT letter to Rich Hudson, dated March 5, 2002
- Exhibit No. 153 Vicinity map
- Exhibit No. 154 Letter from B. Leonard Carlson to Stafford Smith, dated March 7, 2002
- Exhibit No. 155 Letter from Ralph Svrjcek to Stafford Smith, dated March 7, 2002, submitted with testimony on March 7, 2002
- Exhibit No. 156 Document submitted by Joelle Keizer w/her testimony on March 7, 2002
- Exhibit No. 157 South Spar Roadway Plan map
- Exhibit No. 158 South Spar Roadway Profile map
- Exhibit No. 159 Resume for John Lenth
- Exhibit No. 160 Interim Monitoring Report, South Sammamish Plateau Access Road Construction Monitoring
- Exhibit No. 161 Conceptual T.E.S.C. Plan for SE 19th Street and SR 202 Widening map
- Exhibit No. 162 Conceptual T.E.S.C. Plan for SE 19th Street profile map
- Exhibit No. 163 SE 8th vs SE 19th Comparison of Impacts study
- Exhibit No. 164 Table A (revised) Comparison of Treemont, dated March 5, 2002
- Exhibit No. 165 Administrative Rules, Chapter 21A-24
- Exhibit No. 166 Aerial map, photo plan drawing of SE 8th, superimposed
- Exhibit No. 167 Copy of photograph dated 8/1/2001
- Exhibit No. 168 Letter from Carol Beck, Port Blakely, to Rich Hudson, dated February 12, 2002.
- Exhibit No. 169 Design and Performance of Horizontal Drains and resumes for David P. Findley and James Kleppe
- Exhibit No. 170 Map, SE 8th Vacant Lot Exhibit, dated March 6, 2002
- Exhibit No. 171 (Amended Treemont Residential Preliminary Plat) Alternative Drainage Plan Analysis, dated (revised) March 2001
- Exhibit No. 172 Memorandum from Tom Uren, P.E., to John Adams, dated July 10, 2000, regarding direct discharge to the Snoqualmie River.
- Exhibit No. 173 Level Three Downstream Analysis, dated (revised) March, 2001
- Exhibit No. 174 Memorandum from Tom Uren to John Adams, dated July 10, 2000, regarding "Early Start" Permit Process
- Exhibit No. 175 Monitoring Plan
- Exhibit No. 176 Stormwater Pollution Prevention Plan
- Exhibit No. 177 Amended Treemont Preliminary Plat

Exhibit No. 178	Existing Surface-Installed Drisco Pipe Exhibit
Exhibit No. 179	Aldara/Trossacha/Treemont Tightline Comparison Exhibit Map
Exhibit No. 180	Snoqualmie River Floodplain Exhibit Map
Exhibit No. 181	Memo from Tom Uren to Mike Miller, dated December 1, 1998, regarding impervious surfaces w/in the Patterson Creek Basin
Exhibit No. 182	Existing Conditions Regional Drainage Basins Map
Exhibit No. 183	Treemont Subdivision Road Adequacy Standards Transportation Analysis
Exhibit No. 184	Tables 1-3 Level of Service Summary Tables
Exhibit No. 185	Appendix D-Table 1 Lot Mitigation Summary
Exhibit No. 186	Treemont Subdivision Table no. 1, updated February 2002.
Exhibit No. 187	Traffic study results from February 28, 2002
Exhibit No. 188	Traffic study results from March 6, 2002
Exhibit No. 189	Map from Fall City Fire District 27 (with blue line drawn)
Exhibit No. 190	Map from Carnation (with orange line drawn)
Exhibit No. 191	1986 Road Adequacy Standards (dated King County 3-86)
Exhibit No. 192	Photographs
Exhibit No. 193	a. Map b. Chart
Exhibit No. 194	Statement from Mr. Haakenson
Exhibit No. 195	Jenna Scholz resume and related previous projects
Exhibit No. 196	Stream temperature charts (2)
Exhibit No. 197	Urban Stream Rehabilitation in the Pacific Northwest, various authors, dated March 30, 2001
Exhibit No. 198	Forest Cover, Impervious Surface Area. . . , by Derek B. Booth, PH.D., P.E., dated September 2000
Exhibit No. 199	Quality Indices for Urbanization Effects in Puget Sound Lowland Streams, by May, Welch, Horner, Karr and Mar, dated June 1997
Exhibit No. 200	Assessment of Cumulative Effects of Urbanization. . . , by Christopher W. May, dated December 16, 1996
Exhibit No. 201	The Washington Water Resource, Volume 11, Number 4, dated Fall 2000
Exhibit No. 202	Assessing and restoring the health of urban streams in the Puget Sound Basin, by Morley and Karr, not dated
Exhibit No. 203	Ecology and Civil Engineering, Applying public health lessons to protect river health, July 2001, Vol. 4 No. 1
Exhibit No. 204	Sustaining Living Rivers, by Karr and Chu, dated Jan 14, 2000
Exhibit No. 205	Defining and Measuring River Health, dated 1999, by James R. Karr
Exhibit No. 206	Rivers as Sentinels, by J.R. Karr, dated 1998
Exhibit No. 207	Statement by Cindy Parks
Exhibit No. 208	Flooding Caused By Exceeding The Full Bank Condition
Exhibit No. 209	Statement from Joe E. Monahan, dated March 15, 2002
Exhibit No. 210	Rural Character visual
Exhibit No. 211	Traffic visual
Exhibit No. 212	Photo of Patterson Creek (before and after) by Gerald Ketchum
Exhibit No. 213	Video, Treemont rural character
Exhibit No. 214	Non-permitted 300' long drainage ditch
Exhibit No. 215	Sahalee Way Chart

Exhibit No. 216	Duthie Hill
Exhibit No. 217	Treemont North
Exhibit No. 218	Sahalee Project
	a. Sahalee Way Landslide, March 1982
	b. Sahalee Way NE Expenditures
	c. Letter from Thomas E. Kirkland, P.E., Shannon & Wilson, Inc., dated April 11, 1997
	d. Geotechnical Engineering Studies, Happy Valley Landslide, dated December 1997
	e. Erosion Control Plan Map (2 pages)
Exhibit No. 219	List of other projects the County had to make report
Exhibit No. 220	Report on Environmental Compliance and reviews exhibit no. 220
Exhibit No. 221	NTUs from Talasiah Consultants
Exhibit No. 222	Remediation at Patterson Creek
Exhibit No. 223	Laura Casey Statement of Qualifications
Exhibit No. 224	E-mail from Stephen Conroy to Laura Casey, dated October 11, 2001
Exhibit No. 225	SE 19 th St Prel. Channelization and Grading Plan Map
Exhibit No. 226	Aldarra Property Wetland Inventory
Exhibit No. 227	Applicant revised condition 22(d)
Exhibit No. 228	DDES revised condition no. 7(e) Drainage
Exhibit No. 229	DDES revised condition no.20 Wetlands and Streams
Exhibit No. 230	Aldarra—L97P0036 conditions of approval
Exhibit No. 231	Trossachs—L97P0036 conditions of approval
Exhibit No. 232	Resume for Bruce L. Blyton, P.E.
Exhibit No. 233	Proposed Plat of Treemont map
Exhibit No. 234	Patterson Creek (Gauge 48A+48B)
Exhibit No. 235	Memorandum from Alan D. Corwin, P.E., to Jim Eagan, P.E., dated December 29, 1998 regarding SE Duthie Hill Road Slope Stability Concerns
Exhibit No. 236	Snoqualmie River Flooding Information from the King County and GIS websites
Exhibit No. 237	Excerpts from KC Dept of Ecology, dated August 2001
Exhibit No. 238	Storm Water Manual Section 1.2 Core Requirements
Exhibit No. 239	List of potential significant environmental traffic, health and safety impacts
Exhibit No. 240	Letter from Tim Trohimovich, Attorney at Law (Friends of Washington) to Stafford Smith, dated March 18, 2002
Exhibit No. 241	Excluded
Exhibit No. 242	Excluded
Exhibit No. 243	Letter from Robert Johns to Stafford Smith, dated March 25, 2002, regarding the sale of the Treemont project